

ABHANDLUNGEN / ARTICLES

The Changing Tides of Small Island States Discourse – A Historical Overview of the Appearance of Small Island States in the International Arena

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I. Introduction

In recent years, small island states have gained notoriety as the epitome of states threatened by climate change. It is less well known that island states as a group have been the object of varying international development discourses since the early 1970s, discourses which are not only intimately linked to the evolution of North-South relations in general, but which might even be seen as prototypical of the changing hopes and malaises that have dominated the relationship between developed and developing countries in the last few centuries.

Set against the background of the broader evolution of North-South relations, this article identifies and portrays these different island states discourses with the ultimate aim of contributing to an improved understanding of the current international attitude towards the concerns of small island states, as it is believed that 'historical contextualization helps us to deepen understanding of our contemporary terrain'.¹ However, it is also true that such undertakings always risk 'squeeze[ing] the world's causalities into excessively homogenous epochal narratives',² which obscure antidromic tendencies and competing rationales. Bearing this in mind, it is nevertheless argued that three main eras of small island states discourse can be distinguished which are characterized by markedly different approaches to their development and accompanied by changing denominations given to this group of countries. The initial island states discourse, born in the years of hope for a New International Economic Order, focused on overcoming structural disadvantages hindering the socioeconomic development of Developing Island Countries. During the stalemate of the 1980s, the developmental problems of Island Developing Countries were addressed with neoliberal prescriptions of the search for a niche in the global economy which would

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¹ *Liam Campling*, A Critical Political Economy of the Small Island Developing States Concept – South-South Cooperation for Island Citizens?, *Journal of Developing Societies* 22 (3) (2006), p. 235, at 238. The structure of the present article was inspired by Campling.

² *Martti Koskenniemi*, The Politics of International Law – 20 Years Later, *European Journal of International Law* 20 (1) (2009), p. 7, at 17.

provide for some sort of competitive advantage while even rhetorically, international commitment to support this endeavor was flagging. Finally, starting in the early 1990s, island states discourse concentrated on the sustainable development of Small Island Developing States in the face of climate change. Although the different denominations given to the island states grouping have not always been uniformly employed, their general use corresponds with the dominant discourse of the time, just as it is possible to identify the dominant discourse even though the eras of course overlap.

While the emphasis of this article is on small island states *discourse*, i.e. the changing frames of reference for the articulation of international attention to the concerns of small island states, it is also analyzed if and how the different discourses, as the basis for the exercise of power, have translated into action in favor of small island states. The fact that throughout the different eras, practice never lived up to the expectations created by the discourse can be explained by the permanent indeterminacy of the island states category. Although island states have become a recognized subgroup of developing countries, it was never officially defined which countries would fall under the labels of Developing Island Country, Island Developing Country, or Small Island Developing State. And since all action is necessarily object-related, effective action without identified addressees is impossible. However, apart from the fact that the failure to properly define the island states category in itself can be seen as a strategy to keep the discourse sterile, the inadequate treatment of island states is a very poignant expression of the persisting inadequacy, throughout all changing discourses, of international responsiveness to the concerns of developing countries.

II. 1972-1982: Developing Island Countries and the Overcoming of Structural Barriers to Socioeconomic Development

It was in the framework of the UN Conference on Trade and Development (UNCTAD) that island states as a category first received international attention. UNCTAD was established in 1964 as the UN forum to consider trade and economic relations between developed and developing countries. Initially designed as a one-time conference which took place in Geneva in the spring of 1964, UNCTAD was put on a permanent footing as a subsidiary organ of the UN General Assembly later the same year.³ For a long time, UNCTAD functioned as the voice of the ‘global South’⁴ in articulating the concerns of the developing

³ Through UNGA Res. 1995 (XIX) of 30 December 1964.

⁴ The merits and problems of such an approach have been succinctly captured for the environmental context by *Karin Mickelson*, South, North, International Environmental Law, and International Environmental Lawyers, *Yearbook of International Environmental Law* 11 (2000), p. 53, at footnote 6: ‘To speak of a “Southern”, “Third World”, or “developing country” perspective on the highly complex set of issues that are lumped together under the environmental rubric may be problematic in and of itself. There are, of course, significant divisions between developing countries, which play out in different ways on different issues. One notable example is the

countries, many of which had just emerged from colonialism as independent states, in a trade environment dominated by the General Agreement on Tariffs and Trade. Especially in its 'golden years',⁵ the 1960s-1970s, UNCTAD championed the cause of a more just economic world order, culminating in the call for a New International Economic Order (NIEO) which would redress the structural disadvantages developing countries were facing.

Several converging factors had led to the creation of UNCTAD: The deteriorating position of developing countries in the rapidly increasing world trade, the perception of newly independent countries to be entering an economic system that was systematically biased against their development goals, a recognition of the inadequacy of the existing international trade regime, and the influential analytical works of Raúl Prebisch, an Argentinean economist who became UNCTAD's first Secretary-General.⁶ In his years as director of the Economic Commission for Latin America (ECLA), Prebisch had founded the structuralist school of the peripheral economy which conceptualizes the relationship between developing and developed countries as one of domination of an agrarian, dependent periphery by the industrialized, hegemonic center.⁷ According to Prebisch, this asymmetrical relationship between center and periphery structurally disadvantaged the developing countries which had to export an ever increasing amount of primary goods to be able to import the same amount of manufactured goods, due to the relative long-term price decline of primary goods. This theory of secular deterioration of the terms of trade, together with the center-periphery model of the international division of labor, became the dominant Southern theory of the global political economy.⁸

At the same time, the possibilities that developing countries would be able to overcome these relations of dependency seemed greater in the 1970s than ever before, or, for that

diametrically opposed positions of the small island states, represented by the Alliance of Small Island States, on the one hand, and the oil-producing states, on the other, with respect to climate change. Nevertheless, there has tended to be considerable cohesion in regard to environmental issues in general. The Group of 77 and China, in particular, has played a significant role in presenting a more or less unified front in the context of multilateral negotiations. I would argue that one need not posit that the South is monolithic in order to speak meaningfully of its role in the development of international environmental law.'

⁵ *Ian Taylor and Karen Smith*, United Nations Conference on Trade and Development (UNCTAD), London and New York 2007, p. 55.

⁶ *Carlos Fortin*, United Nations Conference on Trade and Development (UNCTAD), in Rüdiger Wolfrum (ed.), *The Max Planck Encyclopedia of Public International Law*, Oxford 2008, online edition, at para. 2 et seqq.

⁷ This model of international economic relations was for the first time widely publicized in Prebisch's seminal report 'The Economic Development of Latin America and Its Principal Problems' of 1949, dubbed the 'ECLA Manifesto'. See for a detailed account *Joseph L. Love*, Raúl Prebisch and the Origins of the Doctrine of Unequal Exchange, *Latin American Research Review* 15 (3) (1980), p. 45.

⁸ *Dieter Nohlen*, Raúl Prebisch (1901-1986) – Das Zentrum-Peripherie-Modell der internationalen Wirtschaftsbeziehungen, *Entwicklung und Zusammenarbeit* 11 (1999), p. 316.

matter, thereafter. The 1960s, the ‘decade of decolonization’, had seen the emergence of many new independent developing countries as actors on the international plane. Using their numerical clout in the UNGA, the developing countries pressed for the adoption of a Declaration and Programme of Action on the Establishment of a New International Economic Order⁹ and of a Charter of Economic Rights and Duties of States¹⁰ to achieve an international legal, albeit non-binding, recognition of their claims. Their ability to back up these claims economically with the ‘oil price shock’ forged by the Organization of the Petroleum Exporting Countries (OPEC) in 1973 forced the industrialized countries into a defensive position and lent credence to the view that the so-called ‘Third World’ was emerging as a potent force between the socialist and capitalist Cold War camps.¹¹ Ideologically, what enabled the increased cooperation between the developing countries was their reliance on a coherent intellectual position, the center-periphery model of international relations. The perception that they all had been bypassed by the international economic system allowed the developing countries to demonstrate unity and solidarity in their relations with other state groupings.¹²

Yet the developing countries not only stressed their solidarity *inter se* but also requested it from the developed countries. Thus, a main objective of the NIEO was to replace or at least complement the existing liberal principles of freedom in trade matters and legal equality with an international economic system that would provide certain privileges and rights – i.e., legal inequality – for developing countries in order to ensure substantive, as opposed to only formal, equality between countries.¹³ It was however felt that this endeavor to ‘correct inequalities and redress existing injustices’ and ‘eliminate the widening gap between the developed and the developing countries’,¹⁴ would also have to take into account existing disparities *within* the group of developing countries so as to prevent the emergence of a ‘second “widening gap”’,¹⁵ between the more advanced and the economically weakest developing countries. The call for a NIEO therefore included the request

⁹ UNGA Res. 3201 and 3202 (S-VI) of 1 May 1974.

¹⁰ UNGA Res. 3281 (XXIX) of 12 December 1974.

¹¹ *Rubens Ricupero*, Preface, in Shigehisa Kasahara and Charles Gore (eds.), *Beyond Conventional Wisdom in Development Policy – An Intellectual History of UNCTAD 1964-2004*, New York and Geneva 2004, p. ix, at x.

¹² This was reinforced by the block negotiation system within UNCTAD. However, the rhetoric of unity and solidarity oftentimes concealed an actual divergence of interests between the developing countries. For this reason, Prebisch left UNCTAD disappointed in 1969.

¹³ *Wil Verwey*, *The Principle of Solidarity as a Legal Cornerstone of a New International Economic Order*, in C. Philotheou et al. (eds.), *North-South Dialogue: A New International Economic Order*, Thessaloniki 1982, p. 487, at 491.

¹⁴ UNGA Res. 3201 (S-VI) of 1 May 1974, preambular para. 3.

¹⁵ *Verwey*, supra note 13, p. 501.

for special consideration to be given to the situation of particularly disadvantaged subgroups of developing countries.

In the context of the NIEO, four such subgroups were identified: least developed countries (LDCs), landlocked developing countries (LLDCs), the ‘most seriously affected countries’, and what was then called developing island countries (DICs).¹⁶ Thus, the 1974 Declaration on the Establishment of a NIEO called for ‘[f]ull and effective participation on the basis of equality of all countries in the solving of world economic problems in the common interest of all countries, bearing in mind the necessity to ensure the accelerated development of all the developing countries, while devoting particular attention to the adoption of special measures in favour of the least developed, land-locked and island developing countries as well as those developing countries most seriously affected by economic crises and natural calamities, without losing sight of the interests of other developing countries’.¹⁷ However, only three of the subgroups, the LDCs, LLDCs and DICs, eventually received some lasting degree of recognition within the UN system.¹⁸

Just as the call for a NIEO in general had taken shape under his auspices, Raúl Prebisch had been the initiator of this advocacy for a special and differential treatment of various developing countries. His call for preferential treatment of developing countries in accordance with their development status profoundly influenced UNCTAD’s agenda¹⁹ and laid the foundation for the key role that UNCTAD was to play in promoting recognition of the special circumstances of LLDCs, LDCs and DICs. Already at its first session in 1964, UNCTAD addressed the problems of land-locked countries which were considered to be in a particularly disadvantageous developmental situation since their lack of direct access to

¹⁶ The denomination was not always consistently employed; thus, some UNGA resolutions already referred to ‘Island Developing Countries’ which would become the common designation in the 1980s.

¹⁷ UNGA Res. 3201 (S-VI) of 1 May 1974, para 4 (c). The Programme of Action on the Establishment of a NIEO contained a similar exhortation in its introduction: ‘[U]rgent and effective measures need to be taken by the international community to assist the developing countries, while devoting particular attention to the least developed, land-locked and island developing countries and those developing countries most seriously affected by economic crises and natural calamities leading to serious retardation of development processes.’ See UNGA Res. 3202 (S-VI) of 1 May 1974, Introduction.

¹⁸ The category of the ‘most seriously affected countries’ had emerged as a consequence of the 1973 oil price shock which not only hit the industrialized countries, but also severely disrupted the economies of some oil-importing developing countries. Although very general criteria for their determination were contained in UNGA Res. 3202 (S-VI) and a list of these ‘most seriously affected countries’ was drawn up by the UNGA in 1976, their genuine characteristics were never defined – something they have in common with the island states category, as will be seen – and reference by UN institutions to this category ceased in the 1980s. See *Verwey*, supra note 13, p. 510.

¹⁹ *Lev Komlev and Pierre Encontre*, Least Developed, Landlocked and Island Developing Countries, in Shigehisa Kasahara and Charles Gore (eds.), *Beyond Conventional Wisdom in Development Policy – An Intellectual History of UNCTAD 1964-2004*, New York and Geneva 2004, p. 103.

the sea and remoteness from markets caused higher transportation costs and inhibited international trade. The conference adopted principles relating to the transit trade of LLDCs, on the basis of which a Convention on Transit Trade of Land-Locked States was adopted in 1965.²⁰ Whereas the category of LLDCs had received prior international attention,²¹ the developing country category of LDCs took shape through the work of UNCTAD. Following Prebisch's call to 'set special targets for national and international policy in relation to the least developed countries as well as the adoption of special measures to achieve these targets',²² and the recognition at UNCTAD I that 'special attention' needed to be paid to them,²³ the conference at its second session in 1968 requested its Secretary-General to identify which countries would fall under the LDC category.²⁴ In two UNGA Resolutions of 1971 and 1975, the UN gave LDC status to a number of developing countries on the basis of authoritative criteria,²⁵ granting them special concessionary treatment in trade relations.

At UNCTAD III, held in 1972, some developing countries then stressed the special problems of DICs in the context of discussions on criteria for the identification of relatively disadvantaged countries. They pointed 'to the disadvantages of being surrounded by the sea, such as the isolated nature of some of the economies concerned, their distance from the main markets and their transport and communications difficulties. They also mentioned their small size and limited domestic markets, limited natural resources and limited base for industrialization. They suggested that these factors, which were of a geographical and physical nature, created natural handicaps to development which were rather different from the socio-economic problems often discussed, but which nevertheless deserved the special

²⁰ The status, including the transit rights, of LLDCs is now largely regulated by the UN Convention on the Law of the Sea, but UNCTAD continued to deal with this matter, resulting in the adoption of the Almaty Declaration and Programme of Action in 2003. See *Gerhard Hafner*, Land-Locked States, in Rüdiger Wolfrum (ed.), *The Max Planck Encyclopedia of Public International Law*, Oxford 2008, online edition, at para. 8 et seqq.

²¹ See *Ibid.*, at para. 1 et seqq.

²² Report of the Secretary General, in Proceedings of the United Nations Conference on Trade and Development, Geneva, 23 March-16 June 1964, E/CONF.46/141, Vol. II, 2, p. 40.

²³ General Principle Fifteen, in Proceedings of the United Nations Conference on Trade and Development, Geneva, 23 March-16 June 1964, E/CONF.46/141, Vol. I.

²⁴ This request was voiced in UNCTAD Res. 24 (II) of 26 March 1968 on 'Special measures to be taken in favour of the least developed among the developing countries aimed at expanding their trade and improving their economic and social development'.

²⁵ UNGA Res. 2768 (XXVI) of 18 November 1971 and 3487 (XXX) of 12 December 1975. The criteria for identifying LCDs were based on a certain per capita GDP, the share of manufacturing in the GDP, and the adult literacy rate. They were reviewed and a mechanism for graduation from LDC status was included in 1991.

attention of the international community'.²⁶ In response, the conference passed Resolution 65 (III) calling for a panel of experts to identify and study the particular problems of DICs and to make recommendations thereon, 'giving special attention to the developing island countries which are facing major difficulties in respect of transport and communications with neighbouring countries as well as structural difficulties, and which are remote from major market centres, and also taking into account over-all prospects for, as well as existing levels of, development'.²⁷

In its report,²⁸ published in 1974, the panel noted that its study seemed to be the first attempt to examine the particular problems of developing island countries in an international forum and that it had to face the preliminary issue of defining its mandate. In what might have been a fateful decision for the further treatment of island states as a category in the international arena, the panel chose to adopt a wide definition of DICs and to include borderline cases, such as developing island territories which had not yet acceded to independence.²⁹ The study also included large islands such as Indonesia and the Philippines, noting that they constituted a minority among the generally small island countries, but contained the bulk of the population. Yet the panel's attempt at defining the characteristics of DICs revealed that they were essentially related to smallness: the experts found that the geographical and demographic characteristics of most DICs were a small territory with a small but dense population,³⁰ remoteness from main shipping routes and world markets, and exposure to natural disasters. In socioeconomic terms, the panel pointed to the fact that most DICs were colonies or former colonies with a narrow, highly specialized export base and an extraction economy largely dominated by foreign companies.³¹ It found that the

²⁶ Report of the Sixth Committee, in Proceedings of the United Nations Conference on Trade and Development, Third Session, Santiago de Chile, 13 April-21 May 1972, TD/180, Vol. I, p. 283, at 288.

²⁷ UNCTAD Res. 65 (III) of 19 May 1972.

²⁸ Developing Island Countries. Report of the Panel of Experts, TD/B/443/Rev.1, New York 1974. The panel consisted of six experts selected in their personal capacity. Chairman of the panel was Percy Selwyn from the Institute of Development Studies of the University of Sussex, who in later works forcefully denied the validity of the island states category. See *Percy Selwyn, Smallness and Islandness*, *World Development* 8 (1980), p. 945.

²⁹ At the UNCTAD discussions, proposals to include dependent territories in the lists of relatively disadvantaged countries met with strong resistance by the developing countries which feared that this would undermine their efforts to achieve complete decolonization and self-determination for all dependent territories. See Proceedings of the United Nations Conference on Trade and Development, Third Session, *supra* note 26, p. 285 and 288 et seq.

³⁰ The classification of DICs was mainly performed by population size, with large and medium DICs defined as having over one million inhabitants, small DICs as having 150,000 to one million inhabitants, and very small DICs as having fewer than 150,000 inhabitants. Other indicators were income level per capita and distance from the nearest continent.

³¹ For an account of why the narrowness of a country's export base is often a function of its colonial legacy, see *J. Timmons Roberts and Bradley C. Parks, A Climate of Injustice*, Cambridge 2007.

special problems of DICs were the consequence of their small size, while larger DICs did not require separate consideration in their situation as islands since their problems resembled those of large developing mainland countries.

The special problems of small DICs identified by the panel of experts pertained to three main areas, namely specialization and dependence; population, manpower, unemployment and migration; and the viability of very small islands. Concerning the first issue, the panel emphasized that the highly specialized, often externally controlled economies of small DICs, with their narrow range of resources and high degree of commodity concentration, led to economic dependence in trade matters 'since world market conditions for a handful of commodities can make the difference between relative prosperity and disaster',³² the situation being compounded by the fact that the metropolitan powers forced the small DICs to reciprocate for preferential access to their markets with reverse preferences conferring a degree of monopoly power on the metropolitan state. Economic dependence also manifested itself in monetary and financial dependence. Regarding the latter, the panel highlighted the influence of multilateral corporations whose activities could have such an impact on the local island economy that it could 'scarcely be described as an economy in its own right', but rather 'as part of an overseas economy, since most economic decisions are in the hands of non-nationals'.³³ To remedy this situation of economic dependence, the panel recommended an increased focus on international commodity agreements. At the same time, it advised against adherence to the 'orthodox prescription' of pursuing a comparative advantage by specializing on a few lines of production, recommending instead the diversification of the island economy and the development of import substitution manufacturing industries. Aware however of the fact that their constrained local markets and resources might make the realization of these recommendations too onerous and difficult at the national level, the panel proposed the regional integration of small DICs which would enable joint economic development and strengthen their bargaining power vis-à-vis metropolitan states and international corporations.³⁴ Regionalization was also considered to be

Their observation that extraction economies established by the colonial powers often benefit national elites is in accordance with the panel's finding that the above-average incomes realized in some DICs sometimes accrued to 'expatriate elements who, as a result of colonization, are in control of the principal economic activities'. See Report of the Panel of Experts, *supra* note 28, p. 4.

³² *Ibid.*, p. 9.

³³ *Ibid.*, p. 11.

³⁴ However, the panel also highlighted the problems inherent in regional integration. It noted that the problem of unequal distribution of costs and benefits common to all regional associations was especially virulent for regional associations of island countries with their diverse cultural backgrounds, poor communication links and sometimes competing economies since 'the short-term gains to the more advanced member countries may not be sufficiently substantial for them to be able or willing to offer special privileges or assistance to their poorer or more backward partners'. It concluded that 'if the regional arrangement is to persist at all, it will require external assistance both towards measures designed to assist the poorer or peripheral members of the

the solution to the constraints imposed by smallness in the second problematic area identified by the panel, namely manpower and migration. The panel noted that the narrow range of institutions and skilled manpower available in small DICs caused difficulties in the provision of infrastructure and administrative, health and educational services. At the same time, the constant population increase produced growing unemployment. This reinforced the trend towards migration prevalent mainly among skilled islanders. The panel proposed the creation of regional training facilities, service institutions and labor markets to compensate for these shortcomings. Regarding the third issue, the viability of very small DICs, the panel expressed its concern that newly independent very small DICs might be so constrained in their ability to deliver essential services and opportunities for their people that emigration might be seen as the only option. It observed that 'there may be a choice facing the international community between allowing small island communities to disappear through emigration or taking steps to ensure their survival through aid of one kind or another'. The panel argued that 'the international community should support local initiative to utilize all opportunities that exist for economic development and to give assistance (where appropriate on a regional basis) with minimum infrastructure and social services and necessary skills', but that in 'certain extreme cases it might be sensible (if the local people so desired) for help to be given to the islanders to move elsewhere'.³⁵ The question of survival of small island states, here raised in socioeconomic terms, was to become the ultimate rallying cry of the small island states grouping from the 1990s on in the discourse focused on environmental vulnerability and sustainable development.³⁶

The report by the panel of experts of 1974 was only the first in a long line of reports and studies aimed at identifying the common characteristics, needs and problems of developing island states. Although most of these efforts indicated that a more concisely circumscribed analytical island states category would have to focus on the problems of small and remote islands,³⁷ these findings were not consistently implemented in the legal-political process which was set in motion to translate them into action-oriented policy prescriptions.

In 1976, UNCTAD IV adopted Resolution 98 (IV) on LDCs, DICs and LLDCs.³⁸ The comprehensive resolution was based on a policy paper by the UNCTAD secretariat³⁹ which

grouping, and for the provision of common services'. *Ibid.*, p. 20 et seq. Thus, the core-periphery logic also permeated the DICs grouping itself.

³⁵ *Ibid.*, p. 14.

³⁶ See Part IV below.

³⁷ Another question is how smallness and remoteness should be defined. There is no definite answer, but land area, population size and distance to nearest continent or market centers are obvious candidates. However, the arbitrariness inherent in any definition has been advanced against the validity of category, although the same could be said of the criteria established for the identification of the LDC category.

³⁸ UNCTAD Res. 98 (IV) of 31 May 1976.

³⁹ Report by the UNCTAD Secretariat, Action on Special Measures in Favour of the Least Developed Among the Developing Countries, the Developing Island Countries and the

like a previous report prepared by the secretariat⁴⁰ focused on the 'more geographically disadvantaged DICs', i.e. those being small and in a peripheral location. This refinement was however not reflected in the list of island states and territories annexed to the policy paper, nor in resolution 98 (IV) itself, which called for 'Specific Action Related to the Particular Needs and Problems of Developing Island Countries' without qualification. The proposals put forth in the resolution concerning measures in the areas of transport and communication, marine resources, trade policies, tourism and flow of external resources, although quite detailed, remained couched in fairly non-committal language.⁴¹ Resolution 111 (V), adopted by UNCTAD V in 1979,⁴² followed the same lines, noting that 'further specific action is needed in the case of island developing countries to assist them to offset their major handicaps, *in particular those* which suffer handicaps due especially to smallness, remoteness, constraints in transport and communications, great distances from market centres, highly limited internal markets, lack of marketing expertise, low resources endowment, lack of natural resources, heavy dependence on a few commodities for their foreign exchange earnings, shortage of administrative personnel, and heavy financial burdens'.⁴³ The resolution urged for specific action to be undertaken in areas such as diversification of

Developing Land-Locked Countries: Policy Issues and Recommendations, TD/191 of 6 January 1976.

40 Note by the Secretary-General of the UN Economic and Social Council (ECOSOC), Special Economic Problems and Development Needs of Geographically More Disadvantaged Developing Island Countries, E/5647 of 27 March 1975. In line with the 1974 report by the Panel of Experts, this report also emphasized smallness and remoteness, focused on the problems of economic dependence, transport and communication costs and exposure to natural disasters and recommended increased industrialization, diversification and regionalization as possible remedies. It was noted however that 'any attempt to draw up a list of geographically disadvantaged island countries would meet with major difficulties' (*ibid.*, p. 5); accordingly no attempt was made to do so.

41 The section on 'Action on Special Measures Applicable to the Least Developed, Developing Island and Developing Land-locked Countries', which referred to measures in the areas of natural disasters, industrialization and transfer of technology, remained even less specific. This is not surprising, as the opposition by developed countries generally prevented UNCTAD resolutions from having any legal significance.

42 UNCTAD Res. 111 (V) of 3 June 1979.

43 Emphasis added. At the same time, the resolution called for more 'in-depth studies to analyse the common problems of island economies and the constraints inhibiting their economic growth and development' and recommended that the outcome of these studies might constitute the 'basis for follow-up action, which could involve meetings of representatives from island developing countries with a view to proposing concrete specific action, taking into account, *inter alia*, the traditional island life and institutions, physical environment, development priorities and the problems of island countries in the international economy'. This recommendation was a weakened version of the proposal, made by the Group of 77 in its position paper which otherwise formed the basis of the resolution, to launch a 'global project' in favor of DICs. See Arusha Programme For Collective Self-Reliance and Framework for Negotiations, Adopted by the Fourth Ministerial Meeting of the Group of 77, held at Arusha (United Republic of Tanzania) from 6 to 16 February 1979, TD/236, p. 172.

the island economies, market access facilitation, foreign investment, responses to natural and non-natural disasters, simplified assistance procedures, cooperation arrangements and integration schemes, and participation in international conferences.⁴⁴

Although the measures proposed in resolutions 98 (IV) and 111 (V) did not constitute an official action program like the ‘Comprehensive New Programme of Action for the Least Developed Countries’ which was launched by UNCTAD V in 1979,⁴⁵ UNCTAD’s preoccupation with the special problems of DICs created enough momentum to be taken to a higher level. Between 1976 and 1982 the UNGA, with a certain degree of exuberance, adopted five resolutions labeled ‘Action programme in favour of developing island countries’,⁴⁶ in which it called upon UN organizations and governments to implement the recommendations issued in the UNCTAD resolutions – unfortunately, without success. The General Assembly repeatedly had to ‘note with concern’ that very few significant initiatives to implement specific actions in favor of DICs had been taken.⁴⁷

The discourse on DICs, which originated in the endeavors to create a New International Economic Order, was firmly steeped in the center-periphery logic of international relations. The characteristics and problems of DICs which were routinely emphasized, namely their smallness and remoteness and their narrow, foreign-dominated extraction economies dependent on a few commodities and foreign trade, made them the prototype of Prebisch’s structurally disadvantaged developing country which were peripheral not only in the figurative, but in the very literal sense of the notion. Since the problems of DICs were ascribed to the structural inequalities of the international political economy, it was assumed that they could be rectified with the remedies Prebisch had advocated for the emancipation of developing countries at large: strategic protectionism,⁴⁸ import-substituting industrialization,⁴⁹

⁴⁴ The resolution did not address the proposal, contained in the preparatory report by the UNCTAD secretariat and in the Arusha Programme, to conduct studies on maximizing the social and financial benefits of migration, preventing the exploitation of migrant workers, and finding alternatives to migration.

⁴⁵ UNCTAD’s efforts resulted in a UN Conference on LDCs which adopted the Substantial New Programme of Action for the Least Developed Countries in September 1981. Other decennial programs of action for LDCs were adopted in 1990 and 2001. See *Komlev and Encontre*, supra note 19, p. 103.

⁴⁶ UNGA Res. 31/156 of 21 December 1976, UNGA Res. 32/185 of 19 December 1977, UNGA Res. 34/205 of 19 December 1979, UNGA Res. 35/61 of 5 December 1980, and UNGA Res. 37/206 of 20 December 1982. The last resolution, anticipating the changing discourse, was already labeled ‘Action programme in favour of island developing countries’.

⁴⁷ UNGA Res. 35/61 of 5 December 1980, para. 1. See also UNGA Res. 39/212 of 18 December 1984, para. 4, and UNGA Res. 41/163 of 5 December 1986, para. 5.

⁴⁸ It was even recommended that strategic protectionism should take place within the DIC grouping itself. See Note by the Secretary-General of the UN Economic and Social Council (ECOSOC), supra note 40, p. 16 and 20.

⁴⁹ UNGA Res. 3362 (S-VII) of 16 September 1975 on Development and International Economic Cooperation, para. 11, called for ‘special measures’ to be ‘undertaken by developed countries and

regional economic integration, and an active role of the state in the development process, all enabled and promoted through preferential treatment as well as financial and technical assistance by the developed countries.⁵⁰ The fact that these recommendations failed to be translated into tangible policies in favor of DICs certainly had to do with the general failure to establish a NIEO, a project that with its 'highly idealistic approach' arguably 'had a tendency to overlook the fact that power, as conventionally perceived by realists, remained the core reality of international relations in both the political and the economic fields'.⁵¹ However, it might have also been due to the fact that even within the NIEO logic, the DIC category as conceived by UNCTAD suffered from a pervasive birth defect. The justification for the creation of special categories of developing countries had been their *particularly* disadvantageous position in the global system even as compared to other developing countries which equally did not belong to the 'core'. In the case of LDCs, this particular disadvantage resulted from socioeconomic criteria, whereas LLDCs and DICs suffered from the geographical handicaps which represented landlockedness and 'islandness'. But while it soon became clear that insularity only constituted an additional and extraordinary obstacle to development if it was coupled with smallness and remoteness, this insight was not reflected in the – unofficial – composition of the DIC category and only hinted at in the UNCTAD and UNGA resolutions calling for special and differential treatment of DICs. The resulting confusion regarding the scope of the DIC concept and the exact addressees of the requested relief measures gave potential donor countries and institutions a convenient reason to escape their commitments to special and differential treatment of DICs and fueled doubts as to the validity of the category.⁵² Thus, in a report of 1982 on 'Progress in the implementation of specific action in favour of island developing countries',⁵³ several states stressed that they did not recognize DICs as a special category and expressed doubts as to whether general statements about the entire subgroup of DICs could sensibly be made at all. In consequence, when asked for their measures of specific action in favor of DICs, most states and organizations just 'described their general policies of development cooperation,

by developing countries in a position to do so to assist in the structural transformation of the economy of the least developed, land-locked and island developing countries', with special attention given to problems of industrialization.

⁵⁰ See *Nohlen*, supra note 8. Also the question of the viability of small DICs was phrased in socioeconomic terms, focusing on their ability to provide essential services to their populations.

⁵¹ *Ricupero*, supra note 11, p. x.

⁵² It has been noted that '[a]vailability of a precise list of countries is, of course, no guarantee that concrete action will follow. But fuzziness and lack of clarity offer an easy pretext for inaction, and may even bring about spurious and unverifiable claims that action has indeed been taken.' *Philippe Hein*, *Small Island Developing States: Origin of the Category and Definition Issues*, in United Nations Conference on Trade and Development, *Is a Special Treatment of Small Island Developing States Possible?*, UNCTAD/LDC/2004/1, United Nations 2004, p. 1, at 17.

⁵³ UNCTAD, *Progress in the Implementation of Specific Action in Favour of Island Developing Countries*, Report of the Secretary-General, A/37/196 and Corr. 1 of 21 October 1982.

or provided information on assistance provided to those developing countries which happen[ed] to be islands'.⁵⁴ The reluctance to confer legitimacy to the DIC category was further compounded in the 1980s, which saw a drastic change in the global political economy of development.

III. 1983-1992: Island Developing Countries and the Flagging Momentum for Support to Development

By the late 1970s, it had become increasingly clear that the demand for a comprehensive reorganization of the global economy on terms more favorable for the developing countries as envisioned by the NIEO was to remain unfulfilled. Several dynamics culminated in the 1980s which led to the 'reassertion of dominance by the developed world over the developing world'.⁵⁵ Many developing countries suffered from overwhelming financial indebtedness after having excessively borrowed easily accessible 'recycled petrodollars', trade surpluses stemming from the 1970s' oil price rise invested by oil-rich developing countries in Northern banking institutions which in turn were quick to lend them to developing countries for the financing of 'development megaprojects', militaries, the repayment of import bills, and personal expenditures of the countries' leading elites.⁵⁶ The growing debt burden acted to 'drastically undermine – if not emasculate – sovereignty and maneuverability in the developing world'.⁵⁷ At the same time, OPEC's reliance on Northern commercial banks 'resulted in a fatal weakening of the developing world's bargaining position vis-à-vis the North, radically undermining the solidarity that had underpinned ... the very foundations of UNCTAD'.⁵⁸ In addition, the ideology that had promoted this expression of solidarity in the first place, the common structuralist worldview shared by the developing countries, was challenged by the economic rise of the 'Asian Tigers' which had apparently successfully⁵⁹ integrated into the world economy. These developments allowed numerous leaders of developing countries – many of whom had never really been committed to the NIEO project, profiting as they were from the socioeconomic structures set up by the colonial powers – to be 'unilaterally plucked off one-by-one'.⁶⁰ Their concurrence with the

⁵⁴ *Ibid.*, p. 4.

⁵⁵ *Taylor and Smith*, supra note 5, p. 16.

⁵⁶ *Roberts and Parks*, supra note 31, p. 49.

⁵⁷ *Taylor and Smith*, supra note 5, p. 17.

⁵⁸ *Ibid.*

⁵⁹ The East-Asian economies collapsed in the financial crises of the 1990s.

⁶⁰ *Campling*, supra note 1, p. 258. *Campling, Ibid.*, asserts that developing country leaders 'often used the rhetoric of a "common front" not so much to actually hold the West to account but to justify their own domestic malpractices or economic crises by placing the entire blame on the West'.

views of conservative metropolitan leaders⁶¹ made it easier to impose the neoliberal economic prescriptions of liberalization and privatization which became the essential conditionalities for the disbursement of aid by donor countries and organizations from the early 1980s on.⁶²

Of course, this reshifting of the global distribution of power weakened UNCTAD as the main forum for the articulation of developing countries' claims. From UNCTAD VI on, held in 1983, the organization was on the defensive and not in the position any more to prompt meaningful North-South negotiation, with the increasingly sterile discussions failing to bring about significant progress on earlier UNCTAD meetings. The new situation was also reflected in UNCTAD's treatment of island states. Whether deliberately to mark a new era or as a more or less unconscious byproduct of the changing development discourse, starting at UNCTAD V, the prevailing denomination for the island states grouping changed from DICs to 'Island Developing Countries' (IDCs). However, the new acronym was not accompanied by a streamlining of the countries included in the category, with the statistical annexes of the various reports produced during this time essentially listing the same heterogeneous amalgam of large and small island states and territories as before.⁶³ Nor were efforts made to draw up an official list of IDCs. Even worse, the 'reconfigured' UNCTAD itself, more and more aligned with the dominant neoliberal ideas,⁶⁴ seemed to lose faith in its creation. UNCTAD VI in 1983 still adopted a resolution on 'UNCTAD activities in the field of island developing countries' which designated the UNCTAD secretariat to act not only as the 'focal point for specific action at the global level' in favor of IDCs, but also 'as a catalyst in this regard'.⁶⁵ The resolution however failed to deliver any impetus on that score, mainly reiterating the need to implement the measures envisaged in resolutions 98

61 As *Taylor and Smith*, supra note 5, p. 16, put it, there was an 'election to government of conservative neoliberals in the capitalist heartland' with the ascension to power of Ronald Reagan in the US, Margaret Thatcher in Great Britain, and Helmut Kohl in West Germany.

62 *Ibid.*, p. 18. The list of conditions attached to funding from the International Financial Institutions came to be known as the 'Washington Consensus'. See *Roberts and Parks*, supra note 31, p. 50 et seq.

63 The suggestion by the UNCTAD secretariat that 'consideration might be given to defining the concept of small island developing countries more precisely and to limiting the specific action to such small IDCs' was not followed. See UN General Assembly, *Island Developing Countries: Measures Taken By the International Community and Recommendations for Future Action*, Note by the Secretary-General, A/39/463 of 28 September 1984, p. 21.

64 See *Taylor and Smith*, supra note 5, p. 67 et seqq.

65 UNCTAD Res. 138 (VI) of 2 July 1983, para. 7. The UNCTAD secretariat however pointed out that its ability to pursue this role was 'constrained by the very limited resources available for this purpose'. See UN General Assembly, supra note 63, p. 20. See further *Komlev and Encontre*, supra note 19, p. 103 for a histology of the successive entities within the UNCTAD secretariat dealing with the island states grouping.

(IV) and 111 (V).⁶⁶ UNCTAD conferences VII and VIII, held in 1987 and 1992, then did not adopt a resolution on IDCs any more – nor on any other substantial issue, for that matter.⁶⁷ In fact, island countries were no longer treated as a separate subgroup of developing countries at all. The ‘Final Act’ of UNCTAD VII and ‘Declaration and Final Document’ of UNCTAD VIII dealt exclusively with LDCs, discussing their situation under the conditions of the Programme of Action for the Least Developed Countries, and only very briefly touched upon the transport and communication problems of ‘island developing countries among the least developed countries’.⁶⁸

Nevertheless, the institutional wheel turning in favor of IDCs still had enough drive to generate five biennial UNGA resolutions, adopted between 1984 and 1992, which – rather more modestly than the previous resolutions of the DIC era – called for ‘Specific measures in favour of island developing countries’.⁶⁹ The resolutions routinely reaffirmed and called for the implementation of their predecessors and took note of the various reports on IDCs produced during this period. Somewhat against the general trend, the three resolutions adopted between 1988 and 1992 even contained some substantial recommendations on measures to be taken by island states and the ‘international community’. Yet this remaining momentum was not sufficient to precipitate more differential treatment in favor of IDCs. Although most IDCs received a relatively high amount of concessional assistance per capita as compared to developing countries in general, this was mainly due to other reasons – such as the ‘small country effect’, historical ties of individual island countries with former colonial powers, or a greater interest in certain islands owing to their perceived strategic position⁷⁰ – which did not relate to a general recognition of the special needs and problems of IDCs as a category. Moreover, the theoretical basis of the request for such recognition had finally become completely ineffectual, as developed countries were no longer prepared to accept invocations of historical responsibility as justification of their duty to promote the

⁶⁶ It is interesting to note that the countries were careful to ascertain, before the adoption of the resolution, that the resolution would have no financial implications.

⁶⁷ The reluctance of developed countries to discuss substantial issues at UNCTAD manifested itself in the demand to allow decisions made to be reached by consensus. This became the de facto rule since UNCTAD VII in 1987. See *Taylor and Smith*, supra note 5, p. 14, and *Fortin*, supra note 6, at para. 17.

⁶⁸ See Proceedings of the United Nations Conference on Trade and Development, Seventh Session, Geneva, 9 July-3 August 1987, TD/352, Vol I, p. 22, and Proceedings of the United Nations Conference on Trade and Development, Eighth Session, Cartagena de Indias, Colombia, 8-25 February 1992, TD/364/Rev.1, p. 35. Emphasis added.

⁶⁹ UNGA Res. 39/212 of 18 December 1984, UNGA Res. 41/163 of 5 December 1986, UNGA Res. 43/189 of 20 December 1988, UNGA Res. 45/202 of 21 December 1990, and UNGA Res. 47/186 of 22 December 1992.

⁷⁰ See UN General Assembly, supra note 63, p. 14; and UN General Assembly, Specific Problems and Special Needs of Island Developing Countries, Report of the Secretary-General, A/43/513 of 25 August 1988, p. 21 et seq. *Campling*, supra note 1, p. 240 et seq., even views the focus on geopolitical security issues as the defining feature of island states discourse during the 1980s.

development of disadvantaged developing countries. In line with the new paradigm that '[t]he responsibility for their development lies primarily with the Governments of IDCs',⁷¹ IDCs were called upon 'to pursue, in accordance with their national objectives, policies and priorities, further measures to render their economies less vulnerable to the adverse consequences of their specific situation', with international aid and expertise only assuming a secondary function.⁷² The idea that had inspired the original island states discourse, namely to standardize preferential treatment for IDCs by according them the status of a special subgroup of developing countries comparable to the LDC grouping, seemed to have been discarded. The neoliberal logic, which focused on 'international competitiveness' through 'outward looking strategies' and the 'mobilization of domestic resources' in order to 'seize the opportunities offered by the external environment' based on 'a high level of inventiveness and entrepreneurship',⁷³ was poorly reconcilable with calls for privileges based on historical and geographical peripherality, even more so since not all island countries aspiring to this status actually exhibited these features. Thus, towards the end of the 1980s it seemed quite possible that the IDC category would, for all practical purposes, fall into desuetude like the equally amorphous 'most seriously affected countries' category of the 1970s. It was obvious that any attempts to reinvigorate international interest in the special circumstances of small island states would have to be based on a novel rationale. This rationale was provided by the advent of concerns about climate change and the rise of the concept of sustainable development.

IV. Since 1992: Small Island Developing States and Sustainable Development in the Face of Climate Change

From the early 1990s on, UNCTAD was no longer in a position to be the political driving force behind requests for a preferential treatment of island states. While the developed countries had been successful in blocking initiatives by simple inertia throughout the

⁷¹ UNCTAD, *Specific Problems of Island Developing Countries*, Report of the Meeting of the Group of Experts on Island Developing Countries, UNCTAD/ST/LDC/9 of 5 July 1988, p. 3.

⁷² UNGA Res. 43/189 of 20 December 1988, para. 5 and UNGA Res. 45/202 of 21 December 1990, para. 5; see also UNGA Res. 47/186 of 22 December 1992, para. 5. A Meeting of Governmental Experts of Island Developing Countries and Donor Countries and Organizations held in June 1990 produced as its only outcome the adoption of a 'balanced document' outlining challenges and opportunities for IDCs with regard to which hope was expressed 'that the document would form the basis for future follow-up action'. See UN General Assembly, Report of the Meeting of Governmental Experts of Island Developing Countries and Donor Countries and Organizations, A/CONF.147/5 TD/B/AC.46/4 of 8 August 1990, p. 19.

⁷³ Report of the Meeting of the Group of Experts on Island Developing Countries, *supra* note 71, p. 3 et seqq. See also UN General Assembly, *Specific Problems and Needs of Island Developing Countries*, Report of the Secretary-General, A/47/414 of 30 September 1992, p. 16: 'The greatest development potential for island developing countries lies in an outward-oriented, focused and flexible strategy that seeks high-value niches in export markets'.

1980s, the 'Northern offensive' on UNCTAD as the main forum for intergovernmental North-South interaction and consensus building in trade matters escalated in the following decade, favored by the collapse of the socialist alternative. The establishment of the World Trade Organization in 1995 plunged UNCTAD into an existential crisis, redundant as it seemed to have become. In the end, UNCTAD escaped extinction only at the price of being relegated to the role of a research body with little influence on the further shaping of the international economic order.⁷⁴

However, concurrently with the loss of influence in this forum, the developing countries increasingly intervened in a different policy domain where their bargaining leverage was greater since their participation was indispensable for the endeavor to be successful, namely global environmental protection. An influential environmental movement that had emerged in Northern countries in the 1960s in response to rising public awareness of worsening environmental decline prompted the UN General Assembly to convene the Conference on the Human Environment in Stockholm in 1972.⁷⁵ The Stockholm Conference, the first UN conference to comprehensively deal with environmental problems of international significance, was at the same time the first quasi-universal discussion forum on international environmental protection, offering the participating developing countries an opportunity to negotiate as a unified collective outside of the UNCTAD realm. Stockholm marked the beginning of developing countries' engagement in the environmental discourse, an engagement still characterized by an attitude of contestation.⁷⁶ The reason for this was not lacking concern about environmental degradation on the part of the South, but rather the developing countries' position that the responsibility for the environmental problems afflicting the earth was to be ascribed to the developed countries which had caused them in the process of industrialization,⁷⁷ and their objection to the one-sided environmental discourse which did not adequately take into account their developmental aspirations.⁷⁸ Ultimately, the involvement of the developing countries at Stockholm set in motion the evolution of the concept of sustainable development, a notion intended to reconcile the antago-

⁷⁴ See *Taylor and Smith*, supra note 5, p. 71 et seqq.; *Ricupero*, supra note 11, p. ix; *Fortin*, supra note 6, at para. 21.

⁷⁵ See on this and the following *Ulrich Beyerlin and Jenny Grote*, Environment, International Protection, in Rüdiger Wolfrum (ed.), *Max Planck Encyclopedia of International Law*, Oxford 2009 (forthcoming).

⁷⁶ See *Adil Najam*, Developing Countries and Global Environmental Governance: From Contestation to Participation to Engagement, *International Environmental Agreements* 5 (2005), p. 303, at 307.

⁷⁷ This is of course not directly true for environmental problems which afflict developing countries immediately, such as widespread deforestation. However, here also it can be argued that these problems reflect a legacy of colonial exploitation and unequal integration into the world economic system.

⁷⁸ *Mickelson*, supra note 4, p. 60 et seqq.

nistic imperatives⁷⁹ of economic development and environmental protection. The new influence of developing countries in environmental matters started to have a palpable impact when the need arose to address the first genuinely global environmental threat, ozone layer depletion, discovered by scientists in the 1970s. The environmental treaties adopted to respond to this problem, the Vienna Convention on the Protection of the Ozone Layer of 1985 with its Montreal Protocol of 1987, were the first environmental regime to effectively implement the concept of ‘common but differentiated responsibilities’ of developed and developing states by providing for grace periods and substantial financial and technical assistance to developing countries in the fulfillment of their obligations. This time, the differential treatment of the developing countries resulted not only from an acknowledgement by the developed countries of their historical responsibility,⁸⁰ the invocation of which had proved fairly futile in the case of the NIEO, but primarily from the realization that efforts to combat ozone depletion would not be successful without the participation of the rapidly industrializing developing countries. A ‘reinvigoration of the South’⁸¹ was also perceptible at the Rio Conference on Environment and Development of 1992, the second major UN conference related to the environment, and, as indicated by the title, now also to developmental issues. At this meeting, a ‘global bargain’ between the North and the South was struck revolving around certain concepts – such as the additionality of financial and technical aid, the principle of common but differentiated responsibilities, and, most importantly, the notion of sustainable development – which increased the

⁷⁹ This antagonism certainly exists if development is conceived in terms of (industrial) economic growth. It might be alleviated if different forms of development could be envisioned, as is the case in current calls for a ‘green economy’. A different approach to development also featured in the ‘Founex Report on Development and Environment’ of 1971, prepared by developing countries in the run-up to the Stockholm Conference. See on this *Mickelson*, *supra* note 4, p. 61. Martti Koskenniemi, from an institutional perspective, observes that the notion of sustainable development ‘single[s] out fragile compromises in areas where the struggle between opposing groups of experts and their preferences has not (yet) been taken to the end’. *Koskenniemi*, *supra* note 2, p. 10.

⁸⁰ Principle 7 of the Rio Declaration on Environment and Development of 1992 states: ‘States shall co-operate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth’s ecosystem. In view of the different contributions to global environmental degradation, states have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.’ Rio Declaration on Environment and Development, in Report of the United Nations Conference on Environment and Development, 3–14 June 1992, A/CONF.151/26. This is a considerably watered down version as compared to the original proposal brought forth by the Group of 77 which focused on the ‘historical and current responsibility for global environmental degradation’ of the developed countries. See *Mickelson*, *supra* note 4, p. 70 et seq.

⁸¹ *Najam*, *supra* note 76, p. 306.

legitimacy of the environmental endeavor in the eyes of the South and ‘changed the very purpose and nature of the global environmental discourse’.⁸²

This new chapter of relations between developed and developing countries, based on the promise of reopening the North-South dialogue – which had all but died in the 1980s – under the caption of environmentally sustainable development,⁸³ also heralded a new era of small island state discourse. For the first time, small island states were not only the somewhat passive objects of this discourse, as they appeared to have been when their plight was advocated by UNCTAD, but active and even influential participants in it.⁸⁴ Their new activism broke the deadlock of the IDC period and finally prepared the ground for an exclusive focus of international attention on *small* island states. Thus, the transition from the IDC acronym to the denomination of ‘Small Island Developing States’ (SIDS), which is the one still in use today, was initiated by small island states themselves. The trigger for this development was the scientific discovery in the 1980s that human activities not only had the capacity to destroy the ozone layer, but also to alter the global climate. While the vulnerability of island states, especially small ones, to natural disasters had been identified as a form of geographical disadvantage which represented a major obstacle to development ever since the beginning of the island states discourse,⁸⁵ the vulnerability of small island states to the consequences of climate change now became their single most important defining feature, so much that it led to a substantial change in the composition of the island states grouping.⁸⁶

This development was set in motion in 1988, when the UN General Assembly adopted a resolution, upon the proposal by Malta, on the ‘Protection of global climate for present

⁸² *Ibid.*, p. 312. Of course, in light of the development of international economic relations depicted above, much speaks in favor of arguing that this outcome was to a large extent rhetorical. This is corroborated by the fact that the implementation of the Rio commitments has been considered a ‘dismal failure’. See also *Adil Najam*, *Unraveling of the Rio Bargain, Politics and the Life Sciences* 21 (2) (2002), p. 46. Nevertheless, it cannot be denied that ever since the Rio Conference, the language of sustainable development has dominated the environmental discourse.

⁸³ See *Najam*, *Unraveling*, supra note 82, p. 47.

⁸⁴ Moreover, only from the 1990s on did the previously almost exclusively inter-institutional and policy-oriented small island state discourse become more academic, as the concerns of small island states now also attracted the attention of political science and international legal scholars.

⁸⁵ Since natural disasters were seen to constitute ‘a fact of life’ in most island states, the policy papers regularly urged for the inclusion of disaster planning in island development strategies. See Report of the Panel of Experts of 1974, supra note 28, p. 18; Note by the Secretary-General of the ECOSOC of 1975, supra note 40, p. 27 et seqq.; Report by the UNCTAD Secretariat, *Specific Action Related to the Particular Needs and Problems of Land-Locked and Island Developing Countries: Issues for Consideration*, TD/279 Part II of 28 January 1983, p. 254.

⁸⁶ *Campling*, supra note 1, p. 241, focuses on economic vulnerability as a defining feature. In general, the invocation of vulnerability was seen as a way to legitimize the need for special treatment of island states, as poverty was not one of their defining characteristics. See *Hein*, supra note 52, p. 10.

and future generations of mankind' in which it recognized global climate change as a common concern of mankind.⁸⁷ The prospect of future climate change-induced sea-level rise referred to in the resolution prompted the government of the Maldives to convene, in November 1989, a 'Small States Conference on Sea-Level Rise'. The attendants of this conference, governments of thirteen small island states⁸⁸ and of the low-lying coastal state of Brunei Darussalam, adopted the 'Malé Declaration on Global Warming and Sea-Level Rise' which emphasized the extensive damage that 'low-lying small coastal and island States' would suffer from climate change (including the threat to the very survival of some island states) and called for a 'continuing dialogue between the small States and the rest of the world on the issue of sea-level rise'.⁸⁹ A first response by the rest of the world to this plea was the adoption of a UN General Assembly resolution on 'Possible adverse effects of sea-level rise on islands and coastal areas, particularly low-lying coastal areas' in December 1989. In this resolution, the General Assembly recommended that the vulnerability of affected countries to sea-level rise should be considered in the negotiations of a framework convention on climate change as well as within the framework of the Rio Conference.⁹⁰ However, the governments of some small island and low-lying coastal states did not seem to want to rely solely on the goodwill of others to champion their cause any more. At the Second World Climate Conference in 1990, they established their own political lobbying group, the Alliance of Small Island States (AOSIS).⁹¹ The creation of AOSIS has been called 'one of the potentially most important developments in international environmental diplomacy of the decade',⁹² and indeed it ushered in the heydays of small island states' influence in international environmental and developmental politics. AOSIS became a major actor in the negotiations of the UN Framework Convention on Climate Change (UNFCCC) of 1992, managing to push through substantial parts of its agenda aimed at bringing the framework convention closer to being an effective environmental instrument,

87 UNGA Res. 43/53 of 6 December 1988, para. 1. On the concept of 'common concern of mankind' see *Jutta Brunnée*, Common Areas, Common Heritage, and Common Concern, in Daniel Bodansky, Jutta Brunnée, and Ellen Hey (eds.), *The Oxford Handbook of International Environmental Law*, Oxford 2007, p. 550.

88 Antigua and Barbuda, Barbados, Cyprus, Fiji, Grenada, Kiribati, Maldives, Malta, Mauritius, Seychelles, Tonga, Trinidad and Tobago, and Vanuatu.

89 Malé Declaration on Global Warming and Sea-Level Rise, A/C.2/44/7 of 22 November 1989, Annex, p. 2.

90 UNGA Res. 44/206 of 22 December 1989, para. 4.

91 AOSIS functions primarily as an ad hoc lobby through the New York Diplomatic Missions to the UN of its members, without regular budget, secretariat, or formal charter. AOSIS had 24 founding members. AOSIS membership currently includes thirty-eight island states and four low-lying coastal states (Belize, Guinea-Bissau, Guyana, and Suriname), and four island territories (American Samoa, Guam, Netherlands Antilles, and the US Virgin Islands) as observers.

92 *W. Jackson Davis*, *The Alliance of Small Island States (AOSIS): The International Conscience*, *Asia-Pacific Magazine* 2 (1996), p. 17, at 17 et seq.

and achieving the inclusion in the UNFCCC of references to the particular vulnerability and specific needs and concerns of small island countries and countries with low-lying coastal areas.⁹³

Capitalizing on this success, AOSIS was able to put the concerns of small island states on the agenda of the Rio Conference on Environment and Development. Agenda 21, the political action program resulting from the conference designed to convert the concept of sustainable development into concrete action programs, contained a program area on the 'Sustainable Development of Small Islands' in its chapter on the protection of the oceans and coastal areas which recognized that Small Island Developing States represented 'a special case for both environment and development'.⁹⁴ In line with the general structure of Agenda 21, which primarily focuses on national policies and then recommends possible assistance measures by a generally unspecified 'international community', the program area set objectives for the sustainable development of SIDS with the assistance, 'as appropriate', of the international community.⁹⁵ Most of these objectives remained too vague and abstract to form a meaningful basis for action, for instance calling on SIDS to '[i]mplement sustainable development plans, including the review and modification of existing unsustainable policies and practices' or to 'design and implement rational response strategies to address the environmental, social and economic impacts of climate change and sea-level rise, and prepare appropriate contingency plans'.⁹⁶ More importantly however, AOSIS, which had expanded its mandate at the Rio Conference to include not only climate change but also broader questions of sustainable development,⁹⁷ attained the inclusion in Agenda 21 of a call for a global conference on the sustainable development of Small Island Developing States.

Convened by a UN General Assembly resolution of 1992,⁹⁸ the Barbados Global Conference on the Sustainable Development of Small Island Developing States was held in

⁹³ See *John W. Ashe, Robert Van Lierop, and Anilla Cherian*, The Role of the Alliance of Small Island States (AOSIS) in the Negotiation of the United Nations Framework Convention on Climate Change (UNFCCC), *Natural Resources Forum* 23 (1999), p. 209. Tellingly however, AOSIS' negotiation goals which really would have put the dedication of the developed countries to the test, such as the commitment to specified emission reduction targets or to effective financial and technical assistance measures, were not fully incorporated in the convention. See *Ibid.*, p. 213 et seqq. and *Eric Shibuya*, "Roaring Mice Against the Tide": The South Pacific Islands and Agenda-Building on Global Warming, *Pacific Affairs* 69 (4) (1996/1997) p. 541, at 551 et seqq.

⁹⁴ Agenda 21, in UN Report of the United Nations Conference on Environment and Development, 3-14 June 1992, A/CONF.151/26/Rev.1 Vol 1, p. 9, Chapter 17, Programme Area G, at para. 17.124.

⁹⁵ *Ibid.*, at paras. 17.128 and 17.130.

⁹⁶ *Ibid.*, at para. 17.128 (f) and (g).

⁹⁷ See *Pamela S. Chasek*, Margins of Power: Coalition Building and Coalition Maintenance of the South Pacific Island States and the Alliance of Small Island States, *RECIEL* 14 (2) (2005), p.125.

⁹⁸ UNGA Res. 47/189 of 22 December 1992.

April 1994. This first major follow-up conference to Rio ‘constituted a landmark [for Small Island Developing States], as it was the first time a UN conference was entirely devoted to this group of countries’.⁹⁹ The Barbados Conference produced a Declaration which proclaimed that the conference would translate Agenda 21 into specific policies, actions and measures for the sustainable development of SIDS.¹⁰⁰ This was to be achieved by means of the Barbados Programme of Action for the Sustainable Development of Small Island Developing States, which established 15 key areas in which actions should be taken at the national, regional and international levels, among them climate change and sea-level rise, natural disasters, tourism resources, national institutions and administrative capacity, and human resource development.¹⁰¹ However, while the Barbados Programme of Action was more comprehensive in scope in its prescriptions of measures to be taken in favor of SIDS than Agenda 21, it suffered from the same lack of specificity regarding the exact addressees of its calls for action.¹⁰²

Nevertheless, after the Barbados Conference, international island-related action focused on the implementation of its outcomes.¹⁰³ This new focus also had implications for the composition of the island states category. The aftermath of the Barbados Conference saw a veritable proliferation of lists of SIDS by UN organizations concerned with island affairs. Yet because official criteria for the SIDS category were never defined, the respective lists do not coincide in their definition of which countries constitute SIDS. Moreover, since the lists were modeled on AOSIS membership, they are even less analytically stringent than the

⁹⁹ *Hein*, supra note 52, p. 1.

¹⁰⁰ Barbados Declaration, in Report of the Global Conference on the Sustainable Development of Small Island Developing States (Bridgetown, Barbados, 25 April-6 May 1994), A/CONF.167/9, p. 3.

¹⁰¹ Barbados Programme of Action for the Sustainable Development of Small Island Developing States, in Report of the Global Conference on the Sustainable Development of Small Island Developing States (Bridgetown, Barbados, 25 April-6 May 1994), A/CONF.167/9, p. 6.

¹⁰² See *Ian Fry*, Small Island Developing States: Becalmed in a Sea of Soft Law, RECIEL 14 (2) (2005), p. 89, at 91 et seq. For an account of efforts to implement the Barbados Programme of Action in the Caribbean see Mark D. Griffith, Reflections on the Implementation of the Programme of Action on the Sustainable Development of Small Island Developing States (SIDS), Ocean and Coastal Management 29 (1995), p. 139.

¹⁰³ The UN General Assembly still adopted one last resolution, UNGA Res. 49/100 of 24 February 1995, on ‘Specific measures in favour of island developing countries’, in which it called for a synergistic consideration of the follow-up to the Barbados Conference and island developing country programs. Subsequent resolutions then exclusively focused on the implementation of the outcome of the Barbados Conference. See UNGA Res. 50/116 of 20 December 1995, UNGA Res. 51/183 of 16 December 1996, UNGA Res. 52/202 of 18 December 1997, UNGA Res. 53/189A of 15 December 1998, UNGA Res. 54/224 of 22 December 1999, UNGA Res. 55/202 of 20 December 2000, UNGA Res. 56/198 of 21 December 2001, UNGA Res. 57/262 of 20 December 2002, UNGA Res. 58/213A of 23 December 2003, UNGA Res. 59/229 of 22 December 2004, UNGA Res. 60/194 of 22 December 2005, UNGA Res. 61/196 of 20 December 2006, UNGA Res. 62/191 of 19 December 2007, and UNGA Res. 63/213 of 19 December 2008.

statistical annexes used during the DIC and IDC period, as they still include not only some rather big islands such as Papua New Guinea and non-independent island territories, but also low-lying coastal countries.¹⁰⁴ Thus, the lists of SIDS currently in use comprise a heterogeneous compilation of ‘small and not so small island and non-island States and non-States’.¹⁰⁵ The eclecticism of AOSIS, which, although the mouthpiece for the concerns of small island states, had embraced the membership of other countries sharing similar vulnerabilities with regard to climate change, had been harmless and even beneficial as long as its mission centered on exerting political pressure in the climate negotiations. Yet it became problematic after the expansion of its mandate. Not only did it weaken AOSIS’ internal cohesion and hence effectiveness,¹⁰⁶ but the lacking stringency of the resulting SIDS category continued to be a ponderous reason for the implementation deficit that still plagued all calls for special measures in favor of small island states.¹⁰⁷

Because of their increased political weight in international negotiations after the creation of AOSIS, SIDS continued to figure prominently on the international agenda. However, the renewed activism did not translate into tangible improvements of the situation of small island states. The five-year review of the Barbados Conference, conducted in 1999 at a special session of the UN General Assembly, found that efforts by SIDS to make progress towards sustainable development were constrained by a lack of available resources, stating that the priority areas of climate change and sea-level rise, natural disasters, freshwater resources, coastal and marine resources, energy, and tourism, had not yet received adequate international attention.¹⁰⁸ A meeting of representatives of donors and SIDS on the

¹⁰⁴ The Commission on Sustainable Development, charged with the responsibility to follow up on the implementation of the Barbados Programme of Action, uses a list of 51 small island states and territories and low-lying coastal countries. The UN Office of the High Representative for the Least Developed Countries, Land-locked Developing Countries and Small Island Developing States, established in 2001, includes fifty-two states and territories in its list, distinguishing between UN members and non-UN members or associate members of the Regional Commissions. UNCTAD now uses the most focused list which features twenty-nine independent island states. However, in order not to alienate other island states, UNCTAD emphasizes that the list serves analytical purposes only. On the proliferation of lists of SIDS see also *Pierre Encontre, SIDS as a Category: Adopting Criteria Would Enhance Credibility*, in United Nations Conference on Trade and Development, *Is a Special Treatment of Small Island Developing States Possible?*, UNCTAD/LDC/2004/1, United Nations 2004, p. 92.

¹⁰⁵ *Ibid.*, p. 94. Encontre also notes that ‘modeling a geographically specific category on the membership of an alliance that was shaped by political circumstances, is an anomaly’. *Ibid.*, p. 97.

¹⁰⁶ See *Chasek*, supra note 97, p. 132 et seqq. For an account of how AOSIS’ original setup as an issue-specific coalition increased its bargaining power in the climate negotiations, see *Robert Blair, Addressing North-South Power Asymmetry in International Environmental Negotiations*, in Kevin Gallagher et al. (eds.), *Reforming the International Environmental Treaty-Making System*, Cambridge 2001, p. 207.

¹⁰⁷ See *Encontre*, supra note 104, and *Hein*, supra note 52.

¹⁰⁸ See Economic and Social Council, *Progress in the Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States*, Report of the Secretary-General,

mobilization of resources to assist SIDS in effectively implementing the Barbados Programme of Action held shortly before had not yielded any concrete financial commitments by prospective bilateral and multilateral donors.¹⁰⁹ This was to be expected, since influential donor countries and major international organizations outside the UN system such as the WTO still do not recognize the SIDS category as a valid basis for differential treatment in trade relations or preferential aid allocation.¹¹⁰ Yet, after the Barbados Conference reassuring calls for heightened international commitment to the plight of SIDS abounded. The Millennium Declaration of September 2000 'resolve[d] to address the special needs of small island developing States, by implementing the Barbados Programme of Action and the outcome of the twenty-second special session of the General Assembly rapidly and in full'.¹¹¹ The Johannesburg World Summit for Sustainable Development, held in 2002 as the third major UN environmental summit which was intended to reinvigorate, ten years after the Rio Conference, the implementation of the Rio outcomes, dedicated one of the chapters of its Plan of Implementation to the sustainable development of Small Island Developing States.¹¹² Apart from some rather elliptic calls for action 'at all levels' in favor of SIDS which arguably represented a step backwards as compared to the Barbados Programme of Action,¹¹³ the Plan of Implementation recommended the convening of an 'international meeting' to undertake a 'full and comprehensive review of the implementation of the Barbados Programme of Action'.¹¹⁴

E/CN.17/1999/6 of 1 February 1999, p. 6, and United Nations General Assembly, Report of the Ad Hoc Committee of the Whole of the Twenty-Second Special Session of the General Assembly, A/S-22/9/Rev.1, 1999, p. 9 et seqq. See also *Fry*, supra note 102, p. 93 et seq. and *Anita M. Halvorsen*, The UN General Assembly's Special Session on Small Island Developing States – Sustainable Development in a Nutshell, *Colorado Journal of International Environmental Law and Policy* (Yearbook) (1999), p. 113.

¹⁰⁹ See United Nations Economic and Social Council, Meeting of Representatives of Donors and Small Island Developing States, 24-26 February 1999, Report of the Secretary-General, E/CN.17/1999/18 of 23 March 1999. At the meeting, it was noted that official development assistance to SIDS had substantially declined. While recognizing that external assistance was also necessary, the donors called on SIDS 'to give greater importance to the private sector by putting in place appropriate policies that will encourage domestic private investment and attract foreign direct investment' in order to enhance SIDS' export capacity and reduce reliance on external assistance. *Ibid.*, p. 5 and 8. See also *Halvorsen*, supra note 108, p. 122 et seqq.

¹¹⁰ However, the World Bank, through its International Development Association (IDA), established a 'small island exception' in 1985 which grants IDA eligibility to some small island states with a per capita income above the regular cut-off point. For an analysis of the acceptance of the SIDS category by various international organizations see *Hein*, supra note 52. See also *Campling*, supra note 1, p. 252 et seqq.

¹¹¹ UNGA Res. 55/2 of 8 September 2000, para. 17.

¹¹² Johannesburg Plan of Implementation, in Report of the World Summit on Sustainable Development, 26 August–4 September 2002, A/CONF.199/20, Resolution 2, Annex, Chapter VII.

¹¹³ See *Fry*, supra note 102, p. 95.

¹¹⁴ Johannesburg Plan of Implementation, supra note 112, at para. 61.

This International Meeting for the 10-year Review of the Barbados Programme of Action was held in Mauritius in 2005. The meeting was convened in order to 'seek a renewed political commitment by all countries to [...] practical and pragmatic actions for the further implementation of the Programme of Action, inter alia, through the mobilization of resources and assistance for small island developing States'.¹¹⁵ At the meeting, the continued validity of the Barbados Programme of Action was reaffirmed and a Strategy for the Further Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States was adopted, intended to realign the Barbados Programme of Action with the evolving priorities of the international donor community.¹¹⁶ However, the fact that against UN practice, the Barbados Conference was followed ten years later not by another conference but by a mere 'meeting', represented a subtle downgrading of SIDS' status in the international arena.¹¹⁷

As indicated previously, the reason for this renewed expression of doubt regarding the legitimacy of SIDS' concerns and for the implementation deficit haunting all requests for special treatment in favor of their sustainable development is certainly related to the continuing indeterminacy of the actual composition of the SIDS grouping. After all, 'no programme can be meaningful, operational and monitorable if it is not clear what specific countries are being considered'.¹¹⁸ However, the fact that ever since the creation of AOSIS and the ensuing emergence of the SIDS category, SIDS were 'becalmed in a sea of soft law' documents 'referring to SIDS embodying non-committal, non-specific and non-conclusive UN-style language requiring further planning and documentation with little supported action on the ground'¹¹⁹ can also be seen as a very visible symptom of the deeper malaise afflicting current North-South relations. Just as the countries assembled under the various SIDS headings – a sizeable number with considerable voting power in international organizations – are appeased by the taking of vague decisions which do not contain any verifiable targets or timeframes but which create the appearance that action is being taken,¹²⁰ devel-

¹¹⁵ UNGA Res. 57/262 of 20 December 2002, para. 6.

¹¹⁶ Strategy for the Further Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States, in Report of the International Meeting to Review the Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States (Port Louis, Mauritius, 10–14 January 2005), A/CONF.207/11, Chapter I, Res. 1, Annex II. The section on implementation measures in the Mauritius Strategy remained fairly underdeveloped, again carrying no targets or timetables for action. See *Fry*, supra note , p. 98. Already in 2004, Philippe Hein stated that it would be 'difficult to avoid that the Mauritius International Meeting turns out to be merely another amiable assembly unanimously expressing pious wishes and good intentions in favour of a nebulous group of countries'. *Hein*, supra note , p. 22.

¹¹⁷ *Ibid.*, p. 16. See also *Fry*, supra note 102, p. 95.

¹¹⁸ *Hein*, supra note 52, p. 16.

¹¹⁹ *Fry*, supra note 102, p. 91.

¹²⁰ See *Hein*, supra note 52, p. 13.

oping countries at large are mollified by the rhetorical proliferation of references to the goal of sustainable development in international environmental and economic relations.

The process leading from the 1972 Stockholm Conference on the *Human Environment* to the 1992 Rio Conference on *Environment and Development* to the 2002 World Summit on *Sustainable Development* nourished the hope of, and is often touted as, an increasing international accommodation of the South's developmental aspirations. This process seemed to have been so successful that some even feared that the environment had 'lost its way on the global agenda' in favor of an almost exclusive focus on developmental issues.¹²¹ Thus, the NIEO seemed to have returned in the guise of a 'New Global Environmental Order'¹²² based on the notion of sustainable development and the recognition that the participation of developing countries in the solving of pressing global environmental problems required their differential treatment according to the concept of 'common but differentiated responsibilities'.

However, while this evolution might have taken place on the level of discourse, the infamous 'implementation gap' which characterizes the post-Rio era testifies to the lack of willingness to transform rhetoric into action. Thus, the most basic commitment for support to development, the pledge by developed countries to direct 0.7 % of their gross national product to official development assistance, first stipulated in a General Assembly resolution of 1970¹²³ and repeated inter alia in Agenda 21 and in the Monterrey Consensus resulting from the 2002 International Conference on Financing for Development, still awaits its fulfillment.¹²⁴ While the Rio Declaration of 1992 called for a 'new and equitable global partnership through the creation of new levels of cooperation among States',¹²⁵ the 2002 World Summit on Sustainable Development, although equally couched in the language of partnership, instead focused on voluntary *public-private partnerships*, designed to enhance private sector investment in sustainable development projects and promoted as the most flexible and hence effective instruments for environmental protection and development. The impression however remains that this institutionalization of private sector involvement was intended to absolve Northern governments from their responsibility to support the

¹²¹ See *Paolo Galizzi*, From Stockholm to New York, via Rio and Johannesburg: Has the Environment Lost Its Way On the Global Agenda?, *Fordham International Law Journal* 29 (2006), p. 952.

¹²² See *Adil Najam*, Why We DON'T Need a New International Environmental Organization, available at <<http://www.bu.edu/cees/research/workingp/pdfs/Najam-GEO-SDPL.pdf>> (last visited 1 October 2009), p. 5.

¹²³ UNGA Resolution 2626 (XXV) of 24 October 1970.

¹²⁴ See *Lavanya Rajamani*, From Stockholm to Johannesburg: The Anatomy of Dissonance in the International Environmental Dialogue, *RECIEL* 12 (1) (2003), p. 23, at 27 et seqq.

¹²⁵ Rio Declaration on Environment and Development, *supra* note 80, Preamble.

development of the developing countries in return for common efforts at environmental protection.¹²⁶

Thus, although North-South discourse has moved from the often accusatory rhetoric of moral and historical obligations prevalent during the NIEO era towards a more conciliatory language of ‘partnership’ and sustainable development, the increase in verbal commitment served to conceal the lack of meaningful action. Instead of the much desired ‘triumph of hope over experience’,¹²⁷ the ‘triumph of discourse over action’ has become the hallmark of the treatment of SIDS and of North-South relations in general in the era of sustainable development.

V. Concluding Remarks

The preceding analysis has shown that the changing tides of small island state discourse have always been intimately linked to the broader ebbs and flows of development discourse. This may come as no surprise, since small islands after all form a part of the wider group of developing countries and therefore are subject to the same hopes and constraints that have determined the relations between the global North and South in the past few decades. However, just as various reports on island states repeatedly noted that the developmental problems of island states were maybe not different as such from those of other developing states, but that their sheer concentration gave them a new quality,¹²⁸ it can be argued that small island states also experienced the different stages of the international development discourse in a concentrated manner.

Created in the optimistic ardor of the NIEO project, the DIC grouping represented the prototype of the structurally disadvantaged country (at least in theory, since the exact circumscription of the category always remained indeterminate) which would profit from a restructuring of the international economic system on terms more favorable to developing countries. The neoliberal focus on self-reliant development through adaptation to the forces of the global market, dominant since the 1980s, hit small island states especially hard since they did not possess the prerequisites, including a sufficient territorial basis,¹²⁹ necessary for a successful integration into the world economy grounded on comparative advantage.

¹²⁶ For critical assessments of the move towards public-private partnerships see *George (Rock) Pring*, *The 2002 Johannesburg World Summit on Sustainable Development: International Environmental Law Collides With Reality, Turning Jo’Burg into “Joke’Burg”*, *Denver Journal of International Law and Policy* 30 (2002), p. 410, and *Carl Bruch and John Pendergrass*, *Type II Partnerships, International Law, and the Commons*, *Georgetown International Environmental Law Review* 15 (2003), p. 855.

¹²⁷ To quote *Najam*, *Why We DON’T Need*, *supra* note 122, p. 9, who misquotes Tariq Banuri misquoting Mark Twain.

¹²⁸ See e.g. UNCTAD, *Specific Problems of Island Developing Countries*, Report of the Meeting of the Group of Experts on Island Developing Countries, UNCTAD/ST/LDC/9 of 5 July 1988, p. 2.

¹²⁹ *Ibid.*, p. 7.

Finally, attempts to revive the development project in the guise of the notion of sustainable development led to a fundamental transformation of the island states category. However, the new influence of small island states in international negotiation fora, although accompanied by renewed international activism in their favor, did not translate into tangible results, just as the increased importance of developing states' participation in global environmental protection efforts has generally not led to a more effective accommodation of their developmental concerns.

This article shall be concluded on a more openly advocatory note.¹³⁰ While it has been tried to demonstrate that the discourse on small island states can be seen as exemplifying the evolution of the broader international development discourse, small island states epitomize the state of current environmental and developmental relations in a much more direct manner. If small island states disappear beneath the waves of rising sea-levels, climate change will have reached such a dangerous level¹³¹ that a total destabilization of our climate system would be the likely result. In its own interest, the 'international community' should therefore start to take the concerns of small island states seriously and for once 'walk the talk' of protecting the global climate, as another triumph of discourse over action would have fatal consequences not only for small island states but for all other developing and developed countries alike.

¹³⁰ See *Mickelson*, supra note 4, p. 79 et seq. for a discussion of Jack Goldsmith's assertion that international lawyers are unable to distinguish analysis from advocacy.

¹³¹ Cf. Article 2 UNFCCC which sets the ultimate objective of achieving 'stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system'.

ABSTRACTS

The Changing Tides of Small Island States Discourse – A Historical Overview of the Appearance of Small Island States in the International Arena

By *Jenny Grote*, Berkeley

Although nowadays mostly known as the countries particularly vulnerable to the effects of climate change, small island states as a group have been the object of varying international development discourses since the early 1970s. It is argued that these discourses are not only intimately linked to the evolution of North-South relations in general, but might even be seen as prototypical of the changing hopes and malaises that have dominated the relationship between developed and developing countries in the last few centuries.

Three main eras of small island state discourse can be distinguished. The initial island states discourse, born in the years of hope for a New International Economic Order, focused on overcoming structural disadvantages hindering the socioeconomic development of Developing Island Countries. During the stalemate of the 1980s, the developmental problems of Island Developing Countries were addressed with neoliberal prescriptions of the search for a niche in the global economy which would provide for some sort of competitive advantage while even rhetorically, international commitment to support this endeavor was flagging. Finally, starting in the early 1990s, island states discourse concentrated on the sustainable development of Small Island Developing States in the face of climate change.

While the emphasis of this article is on small island states *discourse*, i.e. the changing frames of reference for the articulation of international attention to the concerns of small island states, it is also analyzed if and how the different discourses, as the basis for the exercise of power, have translated into action in favor of this group of countries.

Debate on Constitutional Reforms in Chile

By *Peter Gailhofer*, Zürich

Unlike other South American states, which either established new constitutions or “returned” to their former, preauthoritarian constitutions after the end of their 20th century military regimes, Chile retained its 1980 constitution after the end of Pinochet’s rule, drafted and put into force by the authoritarian government. The “constitutional heritage” of the military regime, designed as an institutional framework for a limited democracy, conditioned and constrained the feasibility of democratic reforms in Chile after Pinochet’s defeat in a 1988 plebiscite and throughout the following period of transition.

After an extensive constitutional reform in 2005, the necessity of further reforms