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AUSTRIA AND THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT 1992*

Abstract

The paper starts off with an outline of Austria's national interest in the environmental field and its position in international negotiations in the seventies and eighties. It then deals in more detail with its Austria's position in the UNCED preparatory process, arguing that it belonged to the front runner during the negotiations. Finally giving an outlook on the UNCED follow-up-process the author argues that the Rio Conference marks but the beginning of a highly necessary new type of Cooperation at the global scene.

1. Austrian Positions on Environment

Austria as a country with more than 45% of its territory covered with forests and having large fresh water resources, it is almost natural for it to take stringent positions in the field of protection of the environment.

If one accepts the year 1971 with the Versailles Conference on the Industry and 1972 with the Stockholm Conference on Environment as the birthdates for the idea of environmental protection in its comprehensive sense, one can also state that Austria was among the first ones to join the club. Issues as protection of the forest, acid rain, water management, depletion of the ozone layer and climate change were first taken up under the national agenda and later on supported in international meetings and gatherings in Austria.

In light of the second World Oil Crisis as well as a deteriorating world economy, some of the initial enthusiasm, however, was lost in the late seventies and beginning eighties. Only when educational efforts on a national level led to a comprehensive understanding of the issues at stake and political parties took up the issue, overall support for national as well as international positions could be regained.

With a view to this traditional supportive approach of environmental policies, it was no wonder that Austria became a major player in international affairs on environment. This holds true when citing the Austrian presidency over the ozone layer talks leading to the Vienna Convention and the Montreal Protocol or the first ever international meeting on the subject of climate change in 1985 in Villach.

* Realities and Perspectives. The paper was finished before the end of this Conference.

1.1 National Inputs and Realities

As mentioned before, Austria due to geographic realities has had to display major environmental knowledge even long before 1972. First global observations schemes on climate or sea pollution had been established already in the 19th century. From there on, Austria was coordinating as well as cooperating closely with other states of the European region.

Coming back to the "starting point" 1972, it has to be remembered, that one of the first cases that necessitated international coordination as well as agreements was the acid rain dispute between the USA and Canada. Apart from logistic as well as technical problems involved, the case highlighted the issue of air pollution resulting in increased forest damage.

As a consequence, environmental groups were founded and took up the topic on the respective national level. For Austria, this meant touching upon one of its vital interests which was to conserve as well as enhance its forestry coverage. International cooperation had to become the rule of the game as over 60% of air pollution was caused by immions of then communist countries.

The Economic Commission for Europe (ECE) has been trying since the mid-seventies to cope with the issue in order to allow for an overall air pollution management in the European region. Austria as neighboring country of a number of former East-Block-Countries was heavily inflicted and thereby taking stringent positions in negotiations.

A similar program was at the horizon regarding water pollution. Whereas Austria's fresh water reservoirs seemed still intact, transboundary water ways such as the Danube river were already heavily damaged due to factory pollution by upstream countries. Realizing later on the comprehensive water cycle, also damages of those fresh water reservoirs — be it fresh water lakes, mountain reservoirs or transboundary groundwater reservoirs — had to be admitted. Regarding river pollution, Austria took stringent positions in international negotiations as well as in bilateral and multilateral meetings of established river commissions.

Regarding fresh water reservoirs, a nation-wide initiative was taken to restore the situation, leading to the achievement of drinking water quality of all Austrian lakes in the late eighties. As a consequence, Austria presented this national knowledge in international fora in order to enhance international standards and efforts.

As mentioned earlier, air pollution was one of the front runners of international efforts in the field of environment. Whereas national large investments brought down exhaustion of pollutants such as SO₂ by 75%, immissions from neighboring countries increased well beyond this amount. Apart from negotiating agreements — especially as in the field of environments most agreements constitute soft law only — such an approach did not suffice any more. First on the national, later on on the international level, funding coordination took place in order to allow for direct investments in environment protection equipment in the countries in question — in the Austrian case in form of feasibility studies for consequent national follow-up network. Such efforts have even been increased since the political changes in Eastern Europe.

1.2 Legal Approaches

Environmental law due to scientific uncertainties as well as technological advances constitutes one of the fields of international law where hard law regulations are almost impossible to adopt or implement. This holds true for the international level, whereas national regulations are more stringent than international ones.

In the Austrian case, regulations on air pollution, waste management, or agricultural fertilizing give absolute ranges of limits.

In the international arena, the picture is even more fluid. Apart from such technical and scientific accommodations, political positioning dominate the debate. As an example, one might cite the Montreal Protocol on substances that delete the Ozone Layer, concluded in 1987, which became more effective on a global level after comprehensive financial commitments by developed countries for implementing the agreement in developing countries had been adopted.

Even if environmental law does not allow for too stringent regulations, there are some principles in environmental law which are dominating the debate whilst still others are added.

The polluter pays principle is among those which have been widely accepted on different environmental issues. The idea behind is that the source of pollution should also bear the costs for cleaning up as well as any direct or indirect damage related to it. As a recent prominent example the two conventions on nuclear accidents and liability as a consequence of the Tschernobyl nuclear accident can be cited. In cases of doubt, the country of origin of any form of pollution — on the national as well international level — will, in the end, be the one to bear the costs. Whereas this principle has gained acceptance by OECD-countries, it is gaining increasing recognition also on the global level.

The obligation on prior information on activities with environment damaging capabilities has earned wider recognition, but is likely to collide with national interest in the domain of security policy. In principle, it encompasses the obligation for any entity undertaking any such activity to give full information on the activity as such as well as on potential adverse environmental consequences. In the ideal case, any private or legal person as well as concerned states would have the right to reject the envisaged activity.

In light of centralized administration capacities as well as global regulations, the need for closer scrutiny and for action taken on the regional level has been acknowledged. This entails the obligation of the state closest to the damage — be it geographically, organizationally or otherwise — to take appropriate action. As a basis for this, functioning administrative capabilities have to be in place in order to allow for consequent allocation of costs.

Concerned citizens, environmental groups as well as states have identified the need to gain access to information concerning various environmental data. Respective regulations range from access to any form of information till more restricted systems on a need-to-know-basis. As handing out precise information on industrial or agricultural activities, entails risks when abused, no global system has been agreed upon yet.

In general, one might state that environmental law constitutes the most dynamic area of international law and still offers a variety of gaps to be filled. Apart from the above mentioned principles and developments, one has also to consider that different national legal systems cause another problem on the way to hardening and unifying environmental law.

1.3. Austria's International Positioning

Based on the above mentioned realities and interests, a country like Austria is faced with a variety of options in order to advance international laws and regulations. These possibilities encompass inviting of international working groups, fostering of environmental businesses, network diplomacy outside of meetings with countries of similar interest, usage of the press machinery or looking for alliances within negotiations.

The invitation of international working groups very often serves as a useful means to advance existing positions or regulations. Conducted on the expert level, a variety of political issues can be left aside and substantial advancements achieved. This holds true for the 1985 Workshop on Climate Change in Villach which centered the interest on the issue and still continues to be regarded as the breakpoint on the issue. Regular meetings of such a nature take place within various international organizations such as UNEP, OECD, FAO, ECE or the EC.

As in other subjects, scientific or more political publications display a major input on the advancing of national as well as international negotiations and law-making. Such publications serve as a more detailed communication process among scientists and policy-makers, allowing for inclusion of different positions in ones own thinking. Apart from such communication exchange publications also play a role as national think-tank approaches, binding in parts of the national establishment that otherwise would not have felt concerned.

Building up networks with countries of similar interests on the international level or with other opinion groups on the national level, allows for broadening the base of operation for all. Such networks are able to function as a game-situation allowing for trial-and-error communication among participants. At the same time, they serve as strategy coordination fora in intersessions of negotiations. Though, within the framework of the negotiations on drawing up the later on Basle Convention on the Transboundary Movement of Hazardous Wastes and their Disposal, meetings among countries such as Finland, Canada, Great Britain, France, Germany, USA and Austria served instrumental for the course of the negotiations.

Continuous liaison with press representatives as well as placing of certain information at given points of time, can be also used as positioning tactics. Apart from negative PR -efforts, one might also think about comprehensive reports on positive results obtained in the field of science or legislation, which would then enhance ongoing considerations. In the Basle Convention context, this was widely used, for instance in the field of disposal standards, to enhance the final outcome of the negotiations.

During negotiations — be it on a national or international level — final outcomes very often depend on negotiation techniques and forming of alliances among the interest groups represented. In such a way, even low-key participants can advance their interests or even become major players when entrusted with coordinating functions. In the UNCED-context one might think upon group-coordinators of political groupings such as the Group of 77.

1.4 Issues at Stake

Seen from a national perspective, the basic national resources such as air, water and land stand in the forefront of the interest. Apart from purely environmental considerations, this encompasses security aspects as well as the question of the capability of a given country or entity to implement the interests of its electorate.

First and foremost any given regional identity or country would try to implement environmental policies on the national level, in order to guarantee the well-being of its population. As mentioned before, already in this context one might see differences to which degree various populations would be exposed to environmental problems.

In the past, the international momentum came only into play in case of major catastrophes. This has changed ever since and today, even minor environmental incidents such as small waste dumping places or transboundary movements of household wastes have come to a forefront of attention. In such a situation, environmental interests have quite a great potential to damage bilateral relations which was seen when an Austrian waste shipment to Turkey had been halted and as a consequence bilateral relations with a number of countries involved deteriorated for a limited time.

Apart from those foreign policy approaches to the problem, one should also consider the strategic implications behind. Water, fresh air as well as clean land have become scarce resources in large parts of the world. Therefore, armed conflicts, massive migration or catastrophes of a global range can not be excluded in the near future. One might say that ultimately those are the issues at stake when they, however, are played in a softer way in various negotiating fora. It is, and this has to be stated quite clearly, on different issues for different people a question of survival or death.

In order to deal with this issue of survival in its comprehensive form, the concept of sustainable development must be implemented on all stages of international policy. In the field of the environment, it strives for dealing with questions of poverty and population growth as these projects constitute also the main reason for the degradation of the environment on a world-wide level, especially in the Third World. Only such an integrated sociological approach allows for tackling with the environmental issue in its new and comprehensive dimension.

2. UNCED 1992

20 years after the Stockholm Conference on the Human Environment a new global conference will take place in June 1992 in Rio de Janeiro, Brasil. Contrary to the conference 1972, it takes a much larger approach, envisaging to deal with environment and development.

As outlined earlier, real success on the global level — taking as example the Montreal Protocol once more — was only possible as adequate financial arrangements for implementing those regulations in developing countries were adopted. In light of this development, the initially attempted narrower approach dealing with environment and some forms of development of the Third World has been given up in favor of a much broader approach, dealing with transfer of technology or poverty as well. Not surprisingly, the negotiations have become much more complex, endangering a final and successful outcome in June 1992 as a whole.

This larger concept of sustainability as *the* concept of the process means for the industrialized world to accept great responsibility to tackle poverty and other issues. The successful outcome of this endeavor will finally decide the results of the conference in its follow-up.

The preparatory process has taken place on government level, with comprehensive participation of non-governmental organizations, over the last two years in a number of negotiating rounds as well as intersessional work as well as other meetings. The agenda has become so vast, so many interrelations having come to the forefront, that even insiders have difficulties in understanding the full picture. Still, it is a more than timely exercise regarding environmental problems worldwide and their impact on human beings.

2.1 The Preparatory Process from a national perspective

In light of the political importance of the exercise as well as the various interests involved, the single delegation is almost forced to look for various ways and means to enlarge its field of operation in order to include its interests in the final outcome.

This does not only mean the inclusion of a great number of manpower in national delegations on all the various technical issues, but also having industry, development aid, international lawyers and other staff in the delegations. For small countries it means to prioritize their participation as well as to put them under mental as well as political stress as they are expected to deliver to their home audience on all subjects.

Industrialized countries entered the delegation on the idea of convening such a conference with the view of making substantial progress on the various technical issues and only at a later stage to incorporate development aspects or transfer of technology items in the agenda. Developing countries took quite the opposite approach refusing to deal with specific items as long as principles of application of such commitments were not ensured in their favor, which meant financing as well as transferring adequate technology from their countries. And one can say that they rightly took such a stage as otherwise no comprehensive tackling of related issues would have taken place. On the other hand, two years of preparatory process for

such an undertaking seems not enough to cope with so many political as well as administrative decisions.

Apart from the international implications outlined, any single country is also facing a variety of challenges on the national level. In some cases, important pressure groups are not ready to make the necessary compromises in order to allow for advancement of the international process, in others environmental problems as such are not high on the political agenda.

Negotiators can try to overcome some of the problems they are facing by forming informal network groups and think-tanks, insisting on achieved compromises as best possible results or directly addressing their home audience via the press or any other means.

In the end, however, they are dependent on the political will of their respective governments as well as on the coordination skills of the secretariat units, set up to serve the negotiations.

In this context one should realize that the secretariat body set up plays an essential role in the negotiations, being the only entity having the full picture of the process. Therefore, intensive coordination with the staff of the secretariat seems crucial in order to develop one's own strategy. And still, this does not explain which delegations are players or low-profile players.

2.2 The Players

Remembering the above mentioned outline on the national interests of Austria, one can assume that on specific issues there exist what one might call "natural players". This holds true for countries like Saudi-Arabia on the climate change issue when facing restricted use of fossil fuels, Brazil with regard to the protection of biological diversity centering on its vast rain forests, or the USA when deciding on a tax on CO₂-emissions, thereby interfering with its national industry policy.

Apart from those substantial players any major country of the Third World has become a player as representative of an entity without which any global agreement would not make sense. This holds true for countries like China, India, Mexico, Malaysia, Nigeria or others. It is on the one hand their acceptance of today's policy in order to allow for real changes tomorrow, on the other hand the destruction potential they can display when continuing with exponential growth of pollution or any other form of destruction of natural resources.

Another group of players consists of those countries which have the most sensitive population on environmental issues, such as Scandinavian countries, Canada, Austria or others. Those countries will take "provocative" positions because of the political consensus of the home audience as well as proponents of industrialized countries that favour having both of the good, which means economic growth as well as enhanced protection of the environment.

Players also consist of single personalities in delegations or secretariat units who have the capability of convincing the negotiating forum of adopting compromises in order to avoid even harder choices. At the same time, such personalities often display

the comprehensive skills needed for preciding over working groups or later on continuing in institutional positions once the conference has finished.

Another form of players are — naturally — those countries which have the financial means to implement the commitments undertaken on a global scale. Countries like the USA, UK, France, Germany or Japan range among those countries that decide to some extent the ultimate outcome of the negotiations. The listing of these countries for sure does not imply any coherent grouping but solely their responsibility as well as influence on the overall result.

2.3 The Low-Profile Players

In analogy to what was stated before one might say that some countries due to their geographical situation as well as national interest are quite unlikely to become major players. They will join the consensus if their geographical group holds a strong view on a certain issue or if national interests are not at stake.

Another group of countries that will not hold strong views, only if they do not have outstanding personalities in their delegations, are the so-called least-developed countries. They will also join in any consensus in their favour, while avoiding to be at the forefront of the debate.

Special mentioning shall be given to countries that might be players in one field but not automatically in others. As an example, one might mention once more the USA, which counts as major player on a variety of issues under negotiations, while at the same time abstaining from issues they would not consider important. On issues like financing or CO₂-reductions they are even becoming the stallmates of the negotiations.

3. Austria and UNCED 1992

As a number of other industrialized countries Austria has supported the UNCED-process as well as its overall goals from the very outset. It seemed logical to commemorate the 20th anniversary of the Stockholm Conference 1972 by organizing another major undertaking in order to cope with environmental protection. This holds especially true that within those 20 years environmental protection has become an acknowledged policy priority as well as major scientific progress in understanding as well tackling the issues involved has been made.

The basic Austrian approach was to deal with the various issues, including legal as well as institutional issues, in substance, thereby allowing for identification of needs of the developing world. In a second stage one could than have adopted ways and means for transfer of technology, financing of new commitments, or coping with economic implications of environmental policies. For better or for worse, such an approach was abandoned already in the initial stages of the preparatory process and a comprehensive parallel negotiating structure was adopted.

In the light of this new situation, adjustments in tactics as well as in the overall strategy had to be made in order to allow for substantial participation in the conferen-

ce. Without hesitation Austria acknowledged the need for comprehensive coverage development agenda, thereby clearly stating the responsibility of industrialized countries for environmental damages in developing countries due to the hardships of colonial regimes. However, three parallel negotiating processes in substance as well as tackling all cross-sectoral issues at the same time highly complicated the negotiations and might lead to a less than expected result in the outcome.

3.1 National preparation

Whereas Austria had, as stated above, taken a more technical approach in the first place towards the negotiations, this had later on to be abandoned in light of the real organization of the process. It meant that from the very beginning all relevant interest groups, government authorities as well as industry representatives had to be bound in to allow for active participation of negotiators on all items.

There were especially topics like "transfer of technology" and "environmental aid" that had not been elaborated as such, but had been tackled within the framework of the respective items. This meant for Austria to come to grips with those issues in a rather short time, especially as it has been displaying an active role in the negotiations from the very outset.

In this regard, it was not so much the principle of transfer of technology or additional financial means to third world countries, but rather the modalities of any such a transfer that had not been comprehensively been elaborated on a national level. Drawing upon the experiences gained with the Global Environmental Facility, a financing program based upon UNEP, UNDP and the World Bank, such an approach was considered as serving well at least for part of the revindications put forward. At the same time it was also acknowledged that such a global transfer approach would also reach its limits when talking about specific small scaled projects or dealing with items that would not be top of the priority list. For such cases, direct financing of activities in the framework of international treaties or agreements seemed the best feasible way to combine adequate financing, transfer of technology and administrative requirements under one umbrella. Substantially was the concept apt to achieve such a co-operation and co-ordination and has therefore seen it included on all levels of the process.

Apart from the complexity of, each of the issues involved, preparation as well as ongoing briefing on large circles of the national administration as well as non-governmental organisations required new organisational approaches. Accordingly, a special national commission for the UNCED 1992 was appointed in order to allow for the most efficient transfer of information as well as coordination of positions.

As any other participating country at UNCED 1992, Austria also prepared a national report as input into the conference. Those national reports partially served as the basis of work undertaken by the secretariat, partially as coordination and information exercise on the national level. In light of the results of UNCED 1992, one could expect that a new edition might give the actual state-of-the-art, while at the same time outlines the basic areas for further action.

3.2 International Negotiating Positions

As referred to earlier, Austria has been an extremely active participant in environmental negotiations over more than the last decade and therefore continued adequately also in the UNCED framework. During the preparatory process, the respective Austrian delegations were actively involved in negotiating as well as drafting of almost all items, and giving a large number of statements in plenary as well as in working sessions.

3.2.1 Climate Change

As has been outlined specific work on this issue has been undertaken in Austria since 1984. Therefore, Austria took a far reaching position in the framework of the negotiations, based on the findings of the IPCC (International Panel on Climate Change), on a Convention on Climate Change as well as in the respective working group within UNCED. Austria thereby became the front runner in supporting a 20% cut of CO₂-emissions by the year 2005, based on the emission levels in 1980 as well as in adopting stringent regulations on forest management, protection and conservation as well as afforestation under such international instrument. Reluctance by some industrial as well as developing countries to follow suite made any comprehensive major agreement on this subject impossible.

3.2.2 Waste Management

Having witnessed the quite unsatisfactory negotiations leading to the Basle Convention, Austria showed some reluctance to adopt this instrument in its present form as the ultimate solution to the problems posed. Especially no general prohibition of export of hazardous waste to developing countries had been adopted under the convention. At the same time, administrative necessities under the convention seem somehow to deviate from the overall goal of minimisation of waste or hazardous waste generation.

Never the less, Austria supports the adoption of stringent control measures as well as particularly comprehensive solutions for waste management and disposal, foreseeing transfer of technology and financial aid for third world countries.

3.2.3 Fresh Water Resources

With regard to the global situation of diminishing fresh water resources worldwide, this issue has been considered as one of the central topics of the conference. In the framework of a special meeting in Dublin in February 1992, Austria supported the worldwide recognition of water as an economic good. At the same time a vast catalogue of measures, including the formation of data banks, technology banks as well as schemes for water exchange on a regional level, have

so far been adopted, whereby Austria has been instrumental on a number of those issues.

3.2.4 Hazardous Chemicals

In light of extensive use of hazardous chemicals on a world wide level, Austria supported from the very beginning the drawing up of a list for identifying those substances which should not be used any more and therefore be destroyed on a global level. At the same time, Austria was instrumental in adopting wording for enhancing world wide security standards for handling such dangerous substances.

3.2.5 Marine Pollution

While being a land locked country, Austria still displayed major interest on this issue in light of its importance for the world climate, as a vast biotope as well as source of nutrition for human beings as well as animals and plants. Major support was given to efforts to limit marine pollution, especially sea dumping and pollution by land based sources, drawing up of a global plan for restoring endangered areas as well as foreseeing measures in cases of major accidents at sea.

3.2.6 Biological Diversity

Regarding the ever shrinking number of various species on a global level, Austria has played an active role in the framework of the respective convention talks as well as this specific working group. Efforts to elaborate compromises between countries with vast resources of species and other drawing benefits therefrom, were supported as well as new principles on biotechnology.

3.2.7 Legal and Institutional Questions

In order to enhance existing as well as future environmental regulations, Austria displayed particular interest on legal questions which should lead to a strengthening of legal commitments, verification as well as settlement of disputes. On the latter, Austria has a specific proposal for cases of environmental disputes, incorporating displacement of experts, comprehensive data exchange, co-operative solution models etc.

On the institutional side, Austria supports the enhanced coordination of international activities in the field of environment, thereby avoiding duplication of activities in

international fora. Furthermore, such a concentration of leadership should also allow for increased R&D efforts worldwide. As a basis of such new institutional approach, the above mentioned global environmental facility could serve as a cross-cutting coordination unit once it was adequately reorganized.

The above mentioned issues were only to serve as illustrative examples of the issues dealt with in the framework of the UNCED process, but do obviously not constitute an exclusive list of all items.

3.2.8 Sustainability

From the very outset, Austria has acknowledged the need for technical co-operation as well as sustainable development on a global level. The global environment facility has been adopted as central co-ordination means for enhanced finance as well as technological co-operation between industrialized countries and developing countries for dealing with specific issues. As a much broader form of co-operation, however, is needed in order to implement the concept of sustainability, Austria is also willing to go one step further and elaborate on additional forms of co-operation, such as an International Environmental Fund and other ideas.

4. Outlook

In light of the above mentioned complexity of the subject as such as well as opposing positions of countries, the result to be expected from UNCED 1992 looks quite meager. Main parts of the final document will deal with a list of principles, the so-called RIO-Declaration, Agenda 21, as the basic action program, a variety of papers on the different substantive items as well as statements of principle on the cross-sectoral issues such as transfer of technology and environmental aid.

Concerning legal instruments to be adopted at the Earth Summit, a Convention on Biological Diversity and a Convention on Climate Change were finalized until June 1992. At the same time, statements of principle on the strengthening of existing legal instruments as well as the future outlook of international environmental institutions can be expected.

In the course of the last four years, respective industrialized as well as developing countries have taken hard-line positions which were then regarded as measurement for failure or success of UNCED 1992. Specific problems can be identified in the areas of financial and technology transfer, climate change, institutional approaches as well as topics such as poverty, pollution growth or human settlement.

Concerning the chances of interfering in the process out of the position of a country such as Austria, seems still feasible on some of the substantive issues, but to a much lesser degree on the cross sectoral issues. In principle it has to be stated that on a variety of issues positions seem still not finally decided upon, therefore, last minute compromise solutions are to be found on the spot in Rio.

Therefore, Austria as one of the environmentally most advanced states will have to be prepared for an immediate follow-up of the Rio Conference as this conference

cannot be seen as a unique fight but has to be seen as the starting point for a new type of co-operation at the global scene.

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