

Gearing up for the 9th Session

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Preceded by the second session of the Ad Hoc Open-Ended Intergovernmental Group of Experts on Energy and Sustainable Development, the two Intersessional Ad Hoc Working Groups in preparation for the ninth session of the Commission on Sustainable Development (CSD) met at United Nations Headquarters, New York, from 6-16 March 2001. The themes of the two Intersessional Ad Hoc Working Groups were Transport and Atmosphere and Information for Decision-Making and Participation and International Cooperation for an Enabling Environment. State delegates from all over the world, officials from bodies of the UN system and representatives from IGOs and NGOs took part.

This year's session of the Commission on Sustainable Development and its Bureau is chaired by Bedrich Moldan (Czech Republic) who was elected 5 May, 2000 immediately following the closing of the eighth session (see *Environmental Policy and Law* 30 (2000), p. 115). As usual, contentious issues were on the agenda, but with the cross-cutting nature of the themes on hand it was especially hard to find consensus. For example, the Working Group on Information for Decision-Making and Participation and on International Co-operation for an Enabling Environment had to focus on central issues which are seen as the culmination of CSD's work and the Rio Process. The fol-

lowing report will summarise the issues and outcome of all three working groups.

Ad Hoc Open-Ended Intergovernmental Group of Experts on Energy and Sustainable Development

The second session of the Ad Hoc Open-Ended Intergovernmental Group of Experts on Energy and Sustainable Development met from 26 February - 2 March 2001 and focused on energy issues such as accessibility, improving efficient use of and developing renewable and cleaner forms of energy. Although this working group does not bear the title Intersessional, its mandate is to provide input to the CSD and thus is part of the preparatory process leading up to the ninth session. The first session was held from 6 -10 March 2000 and its report is available under document number (E/CN.17/2000/12). Mohammad Reza Salamat (Iran) and Irene Freudenschuss-Reichl (Austria) were designated as Co-Chairs. After JoAnne DiSano, Director of the UN Division for Sustainable Development/DESA, outlined the Secretary-General's report on "Energy and sustainable development: Options and strategies for action on key issues" (E/CN.17/ESD/2001/2), the Co-Chairs presented a first draft negotiating text (E/CN.17/ESD/2001/L1). Immediately criticism arose that the text was unbalanced and borrows too heavily from the European conceptualisation of tackling energy problems.

After much compromise, another draft was presented

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in which many sections were left heavily bracketed. Under general considerations, all agreed that energy is central to achieving the three pillars of sustainable development (economic viability, social acceptability and environmental soundness), but questions were raised whether the term “sustainable energy” or “energy for sustainable development” should be used. It was also stressed that one should take care to adopt language in line with Rio+5, especially by referring to “sustainable consumption patterns”.

Besides the already mentioned key issues – accessibility of energy, energy efficiency and renewable energy – advanced fossil fuel technologies and nuclear energy technologies were also deemed worthy of a separate sub-heading. Although technologies based on fossil fuels are not forward-looking, delegates agreed that they will continue to play a dominant role in the energy mix and thus one should concentrate on making most efficient use while lowering carbon emissions and relying more on natural gas. Nuclear energy technologies, by contrast, were subject to heated debate as the International community remains divided whether it deserves to be listed as a sustainable source of energy given the associated safety and health risks, problems in disposing of the nuclear waste and lack of public confidence. Furthermore, objections were raised toward references to preventing the proliferation of fissile material as this subject matter is covered through International Atomic Energy Association (IAEA) regulations and Non-Proliferation Treaties. The entire section was left bracketed, as no appropriate experts were present.

In addition to the issues mentioned above, the final negotiating text identifies as key issues maintaining energy supply to rural areas and ensuring that modern transportation demands are met by relying on more efficient use of energy. To promote sustainable development in rural areas, energy service delivery structures should be developed that are adapted to the needs of these regions and that make use of innovative financing arrangements from which the local community may benefit through employment opportunities. Policy-makers should seek to ensure that electricity is affordable to the poor and that use is made of indigenous energy sources whenever possible. Concerning sustainable transport systems, governments were urged to draw up plans to integrate a more rational approach to urban planning with a view to transportation demands. The use of cleaner fuels was also promoted, but delegates from developing countries were unwilling to un-

derwrite the phase – out of leaded gasoline when no external funding is made available to them in order to adapt to the necessary (and more expensive) technology.

Overarching issues centred on research and development of cleaner, more efficient and renewable energy, capacity-building and technology transfer to enable developing countries and economies in transition (EITs) to adopt to such technology, mobilising financial resources and generating incentives to steer markets toward making use of such sustainable energy technologies, as well as emphasising the multi-stakeholder approach. Separate sections for regional and international cooperation were added in which the multilateral co-operation on research and development and the exchange of information was encour-



From left to right: JoAnne DiSano, Director, Division for Sustainable Development, Co-Chair Irene Freudenschuss Reichl (Austria) and Co-Chair Mohammad Reza Salamat (Iran)

Courtesy: IISD

aged. Cross-border electrification and energy trade projects are also to be promoted. The section on international cooperation was highly disputed, as many delegates doubted the usefulness of a message to other intergovernmental bodies since it prejudices the outcome of many ongoing negotiation processes. In regard to international endeavours, one also wanted to exercise caution in order not to initiate any action that reproduces the work of existing international development programmes and/or co-operation projects.

The general sense of the meeting was one of frustration concerning what had been achieved. Many delegates were not satisfied with the final version of the draft decision text because it was not prepared in the standard UN document format. However, they were reminded that these are only supposed to be elements for a draft decision, and that the bracketed text portions are meant to serve as alternatives for consideration by CSD-9. The Co-Chairs also stressed that the final text should be viewed as a menu of options adaptable to each nation's needs.

In the end, a poisoned atmosphere prevailed and it was feared that the mood would not improve for the following sessions, and may even compromise the success of CSD-9.

Intersessional Ad Hoc Working Group on Transport and Atmosphere

The first of the two Intersessionals, which took place from 6-9 March 2001, was divided into two separate negotiation sections according to the topics of Transport and Atmosphere. David Stuart (Australia) and Daudi Taliwaku (Uganda) presided over both as Co-Chairs.

Transport

After the Report of the Secretary-General on Transport (E/CN.17/2001/3) was presented by the Director of the UN Division for Sustainable Development, the co-chairs presented a first draft of elements for a decision on transport. Unlike the previous working group, delegates were quite satisfied with the first draft and were able to reach a quick compromise on the possible elements for a draft decision.

Among the general considerations, they noted that decisions concerning transport issues should ensure a balance between the three pillars of sustainable development. There was disagreement as to whether the main term should be "sustainable transport" or "transport for sustainable development", but it was once more left up to CSD-9 to render a final decision. Policy proposals concerning transport investment should account for land-use regulations which limit urban sprawl, promotion of non-motorised transport and mass transit systems, adaptation to cleaner fuels as well as transfer of cleaner technologies. A balanced mix of land-, water- and air-based modes of transportation which fulfil modern transportation requirements and are least detrimental to the ecosystem should also always be a consideration.

Delegates agreed that the international community should focus on ensuring adequate financing for research and development into cleaner technologies, more efficient transportation modes and integrated infrastructure planning. Developing countries should also be given international assistance in order to set up human resource development programmes for capacity building. Partnerships between the public and private sector should be supported in order to stimulate investment into the introduction of appropriate technologies and infrastructure. Furthermore, the exchange of transport-related information should be facilitated, public awareness be raised and transport policies aimed at improving safety standards be promoted. Special mention was made in regard to the transport and communication structure in mountainous regions, as well as encouraging the work of the International Civil Aviation Organisation (ICAO), International Maritime Organisation (IMO) and the United Nations Industrial Development Organisation (UNIDO).

As for regional co-operation, the Commission should encourage this through UN regional commissions, regional development banks and other regional frameworks for political and economic co-operation to exchange data and policy experiences, finance intraregional transport projects for sustainable development and look into the creation of transboundary pollution agreements or, if these already exist, strengthen these. The section on the national level

contains similar recommendations as those on the international and regional level with a special emphasis on formulating government policies which provide incentives for the private sector to switch to cleaner, more energy-efficient and safe modes of transportation while ensuring that transportation remains affordable for all segments of society.

Atmosphere

Having concluded the first section on Transport, the Working Group turned to the subject of atmosphere and heard the Report of the Secretary-General on Protection of the Atmosphere (E/CN.17/2001/2) and the Co-Chairs' initial draft of possible elements for a decision on atmosphere. During the general discussions, it was agreed that climate change issues should not be part of the agenda in order not to prevent prejudging the outcome of the UN Framework Convention on Climate Change (UNFCCC) COP6.

Among the possible elements for a draft decision on atmosphere, the general provisions state that all measures under consideration should strike a balance between the three pillars of sustainable development, especially in view of the principle of common, but differentiated, responsibilities. Further mentioned are renewed recognition of the importance of additional international financial support for developing countries, as well as support for capacity building and transfer of environmentally sound technologies in accordance with the provisions of Agenda 21. A section was added which states that the developed world carries the greatest share in historical and current pollution emissions and thus should take the lead in addressing issues related to the atmosphere and its detrimental side effects in all of its complexities. The US took exception to the term "historical" and called for its deletion.

With reference to international co-operation, the Commission is urged to recommend further research and development of technologies for controlling air pollution, capacity-building and financing in order to implement these technologies and the promotion of sustainable consumption and production patterns, with a view toward providing assistance to developing countries and EITs. Mention was made in regard to the existing international legal instruments related to the protection of the atmosphere, such as the UNFCCC, Montreal Protocol, etc. The G-77/China stressed the importance of replenishing the Multilateral Fund under the Montreal Protocol and encouraging its Parties to meet their obligations to contribute on a regular basis.

Prescriptions for the regional level have been summarised very briefly and are similar to the initiatives for international co-operation: more regional co-operation on atmosphere-related issues while taking into account each region's characteristics; support for existing regional frameworks for controlling air quality and transboundary air pollution; and scientific monitoring of the atmosphere. Recommendations at the national level also include taking into account individual national priorities and circumstances, studying of atmospheric conditions, developing policies for controlling air pollution and promoting re-

search and development into the best available and affordable technologies for reducing emissions. Special emphasis was put on involving public participation and the study of adverse affects on human health.

The report and draft elements for a decision on transport and atmosphere were adopted with only few reservations and the Co-Chairs were relieved to see that, in contrast to the previous Working Group on Energy, a spirit of goodwill prevailed among the delegates. This was attributed to the fact that special attention was given to draw a clear line which aspects of an issue are to be discussed by the participants at hand, and which aspects are better left to other international fora already dealing with these questions. A fruitful exchange of views was thus made possible and there was also time to consider questions usually deemed to be of lesser importance and to listen to the input by NGOs.

The Co-Chairs were given good marks for organising the discussion in an efficient manner and ensuring that the topics do not overlap with the themes of other intersessional working groups. It was also evident from the discussions that certain legal concepts, such as the "polluter-pays principle", were widely unfamiliar to the participants and it was agreed that a special informal side meeting should be held at CSD-9 in order to brief those interested in these and related issues.

Intersessional Ad Hoc Working Group on Information for Decision-Making and Participation and on International Co-operation for an Enabling Environment

From 12 to 16 March 2001, the meeting of the Intersessional Ad Hoc Working Group on Information for Decision-making and Participation and on International Co-operation for an Enabling Environment took place and was co-chaired by Madina Jarbussynova (Kazakhstan) and Alison Drayton (Guyana) and divided into two thematic sessions as above.

Information for Decision-Making and Participation

JoAnne DiSano presented once more the Secretary-General's report (E/CN.17/2001/4), as well as two additional background papers entitled "Report on the aggregation of indicators of sustainable development" (E/CN.17/2001/4/BP/2) and "Indicators of Sustainable development: framework and methodologies" (E/CN.17/2001/4/BP/3).

These background papers turned out to be the main issues of contention since the ensuing debate centred on setting up standard indicators for sustainable development and how to implement these. Many delegates from the G-77/China were apprehensive about participating in a project involving any such kind of indicator, as they feared that these would be made a basis for determining whether a developing country is eligible for development aid from international financing institutions. In the final text of possible elements for a draft decision, it was made clear that countries would participate in these indicators only on a voluntary basis and that there would be leeway in

implementing these in order to account for country-specific conditions.

What should have been the central theme, namely bridging the data gap, especially *vis-à-vis* developing countries and economies in transition, thus was driven into the background and less time was devoted to discussing possible initiatives for co-ordinating data collection on a worldwide scale and making it available for analysis. In the end, delegates agreed that among the draft elements it is stated that the international community should encourage the streamlining of methodologies for data collection and sets of indicators used, and assist capacity building in developing countries in order to enable the creation of national centres for information gathering and statistical analysis. In addition to know-how, international financial support should be made available for setting up such information infrastructures, for which Internet technologies are an indispensable prerequisite. While the positive role the private sector could play in information management was acknowledged, there should be safeguards which ensure that the degree of public access is not restricted by an exorbitant price tag for such services.

A successful initiative of the UN Economic Commission for Europe (ECE), the Aarhus Convention on Access to Information, Participation in Decision-making and Access to Justice in Environmental Matters (see EPL 28 (1998), p. 211) was cited as a model for similar regional frameworks. It focuses on the individual and societal groupings' rights to access to information and participation in the national decision-making process in matters concerning the environment. Unfortunately, due to the prolonged discussion on the indicators of sustainable development, the political and legal implications of the Aarhus Convention were hardly touched upon. Another crucial oversight, some participants noted, was that there was no attempt to link the discussions between data gathering and the co-ordination of decision-making.

International Co-operation for an Enabling Environment

After the Secretary's report on "International Co-operation for an Enabling Environment for Sustainable Development" (E/CN.17/2001/5) was presented, the Working Group began to confer with one another on a no less challenging subject. Delegates quickly agreed that the introductory paragraph for the possible elements for a draft decision should include the general statement that an enabling environment at both the domestic and international levels of government is necessary in order to attain all three pillars of sustainable development. A precondition for achieving this is to foster partnerships between developed and developing countries, on the basis of common but differentiated responsibilities whilst taking into account national particularities. The debate thus quickly turned to the possible benefits and dangers of globalisation and one had to acknowledge the all-too familiar crux of the matter: on the one hand, increasing globalisation paired with trade liberalisation and economic growth poses an opportunity to reduce worldwide levels of poverty; on the other

hand, it can also lead to greater disparities among the wealthy and poor on a global as well as on a national scale.

At the international level, delegates considered the questions of unfulfilled UN official development assistance (ODA) targets, improving mechanisms for financing sustainable development, and how international trade regulations relate to sustainability concerns. While there were certain delegates who called for raising UN ODA targets beyond 0.7 per cent, the Working Group's final recommendation reads that current ODA targets should be reinforced in order to reverse their decline. Further efforts should be made toward improved co-ordination of ODA and private resource flows to better suit the needs of individual recipient countries. Concerning mechanisms for financing, there was a call to develop new innovative financial instruments and public-private partnerships, as well as improve the existing structures, such as the Global Environment Facility (GEF), in order to make them more responsive and to eliminate unnecessary duplication among bilateral and multilateral development institutions. In regard to international trade, discriminatory practices, such as agricultural and energy subsidies, were lamented since they not only distort the international market, but are often environmentally harmful. However, it was stressed that environmental standards should not become trade barriers to products imported from developing countries.

At the national level, general recommendations were

proposed such as to formulate and implement national sustainable development programmes which integrate the three pillars of sustainable development, as well as to promote domestic capacity-building for improving the economic and social situation through the multi-stakeholder approach.

In the end the final document that was adopted by the Working Group was viewed as a mixed success. Delegates wished that they had had more time, but were repeatedly reminded that these are all non-binding proposals for possible elements of a draft decision for the upcoming session of CSD.

Many delegates feared that the antagonistic atmosphere of the Intersessionals was but a taste of what is to come at the main session of CSD-9, on 16-27 April 2001, and will foreshadow what can be realistically achieved at the World Summit for Sustainable Development (WSSD) in 2002. The provisional agenda foresees that during the High-level Segment the ministers present will consider the reports of the Ad Hoc Working Groups, have interactive dialogues on the themes contained therein and subsequently form drafting groups to prepare texts for adoption. In addition, four Multi-Stakeholder dialogues will be held on the following topics: (1) achieving equitable access to sustainable energy; (2) sustainable choices for producing, distributing and consuming energy; (3) public-private partnerships to achieve sustainable energy for transport; and (4) sustainable transport planning.



The Inter-Sessional Working Group meets in the ECOSOC Chamber

Courtesy: WEB