



## Discussions on Governance Continue

by Michael A. Buenker\*

The Open-Ended Intergovernmental Group of Ministers or their Representatives on International Environmental Governance (IEG) met for the second time<sup>1</sup> at the Beethovenhalle, Bonn, Germany on 17 July 2001. As agreed during the last Governing Council,<sup>2</sup> it was scheduled parallel to another ministerial meeting, the continuation of the sixth session of the Conference of the Parties to the Climate Change Convention (UNFCCC) which began the day before. Two hundred participants from 75 countries were present, including 21 ministers and deputy ministers, and various representatives from other UN agencies and Convention secretariats, non-governmental organisations (NGOs) and inter-governmental organisations (IGOs).

Parliamentary Secretary of the Canadian Environment Ministry, Karen Redman, opened the meeting on behalf of David Anderson, the Chair of the Intergovernmental Group and current President of the Governing Council of the United Nations Environment Programme (UNEP), who was unfortunately in hospital recovering from an accident. However, David Anderson personally delivered his opening statement via telephone. He summarised the consensus of the first meeting as being the need to strengthen UNEP in financial terms as well as with other resources. He reminded delegates that the mandate of the Group was much broader: countering the fragmentation of international instruments dealing with the environment, resulting in a proliferation of intergovernmental meetings, thus making it difficult to secure adequate political and financial support, much less ensuring a coherent approach toward tackling the globe's environmental challenges. The problem was compounded by the fact that it is increasingly difficult for countries, especially those of the developing world, to keep track and effectively participate as their capacities are being stretched to the limit.

Among the documents tabled for discussion, he highlighted the *Organisation of Work* (UNEP/IGM/2/INF1) which outlines the work plan of the Intergovernmental Group and the intersessional activities until December 2001. (For dates of future sessions of the Group, please

refer to this document as reprinted on page 260). He also mentioned that the next special session of the UNEP Governing Council/Global Ministerial Environment Forum would take place either in Mexico or Colombia from 13-15 February 2002.

Further documents presented were a *Policy Paper on Improving International Environmental Governance among Multilateral Environmental Agreements* (UNEP/IGM/2/4) and a *Proposal for a Systematic Co-ordination of Multilateral Environmental Agreements* (UNEP/IGM/2/5). *The Concept of a Chemicals and Waste Cluster: an Overview* (UNEP/IGM/2/INF/2) was also introduced.

UNEP Executive Director Klaus Töpfer summarised the following areas of concentration that were agreed upon during its first meeting:

- an evolutionary approach toward reforming international environmental governance;
- a better definition of the dimensions involved;
- the placement of environmental governance in the context of sustainable development,
- the involvement of other ministries at the national level; and
- securing adequate financing.

After summarising the activities which took place during the Intersessional period, Klaus Töpfer presented a catalogue of questions (UNEP/IGM/2/CRP.1) in order to facilitate an interactive dialogue on the issues raised, which is reprinted in full on page 261.

As the emphasis of this meeting was on interactive dialogue, the reports of other intersessional activities, statements by other UN agencies and Conventions and comments by national representatives were interspersed with one another. Rajendra K. Pachauri (Tata Energy and Resources Institute) and Lee Kimball (consultant) reported on the outcome of the Expert Consultations on IEG held at Cambridge, United Kingdom, 28-29 May 2001. Simone Lovera (Friends of the Earth International) and Grace Akamu (Climate Network Africa) summarised their observations from the Civil Society Consultations held at Nairobi, Kenya 22-23 May 2001. For a full report on both of these proceedings, please consult document UNEP/

\* Administrative Officer, International Council of Environmental Law.

IGM/2/2. The Report of the Chair of the Committee of Permanent Representatives to UNEP (UNEP/IGM/2/3) also followed later.<sup>3</sup> For the sake of clarity and brevity, the statements by government representatives and those by UN and IGO representatives have been divided into the two following sections, irrespective of the chronological order they were delivered.

### Statements by Government Representatives

The representative of Iran, speaking on behalf of the Group of 77 and China, stressed that the IEG process is concerned with consensus building and emphasised that it is to take a gradual approach toward reform. He concurred with the report of the civil society meeting "that UNEP should be strengthened, but not necessarily through creating a new environmental body." In regard to the clustering of MEAs, he stated:

"Promoting coherence and co-ordination among existing environmental agreements is a ra-



The Conference Panel Chaired by the Parliamentary Secretary of Canada, Karen Redman

tional and achievable short- and medium-term goal for which the international community has expressed support and has outlined the scope and framework within which it would like to see the whole process to move. The [UN General Assembly Resolution 53/242]<sup>4</sup> has provided a well-defined mandate to provide for a positive, collectively understood change while avoiding non-consensual or extreme options."

In closing, he emphasised that the discussions on IEG should under no circumstances overshadow the concerns of developing countries regarding financial support, technology transfer and capacity building.

The Belgian representative, speaking on behalf of the European Union (EU), referred to the recent European Council meeting held at Gothenburg on 7 June 2001 (see page 249) which adopted among its conclusions support for the ongoing IEG process. The preparatory process leading up to the World Summit on Sustainable Development (WSSD) thus should address the following issues so that the Summit will take steps to ensure a more coherent and integrated institutional environmental architecture "through measures such as:

- providing increased political impulse and direction to [IEG];
- strengthening of [IEG] based on existing structures, in particular UNEP, aiming to gradually adapt them to

the new requirements which could ultimately lead to a World Environment Organisation (WEO), respecting existing headquarters; and which should try to respond to current challenges, particularly as regards the implementation of environmental agreements;

- creating a reinforced co-ordination between UNEP and the MEAs' secretariats *inter alia* through strengthened coherence of programmes, schedules, actions and strategies;
- improving management of environmental issues, for example, by a programme of work to closer relate the activities and, if possible, the means of the MEAs' secretariats working on neighbouring topics."

Concerning a strengthened and broadened financial foundation, in particular for UNEP and GEF, the EU suggested "measures such as:

- promoting stable, predictable and adequate funding, based on fair burden-sharing, as a prerequisite for improved governance;
  - increasing efforts to integrate environmental concerns in international financial institutions as well as in all co-operation efforts;
  - ensuring adequate financial resources for addressing a broad range of global environmental issues through a substantial replenishment of the GEF, and taking into account the role of GEF as the principal financial mechanism for the global environment."

Courtesy: IISD

Reforms of international environmental structures that are to have effective impacts on national and regional implementation should include measures to enhance capacity building and technology transfer, as well as to strengthen and streamline the capacity for data collection, assessment and monitoring.

In separate statements, the United Kingdom, France and Germany were later to second the idea of reinforcing UNEP, eventually leading up to the creation of a WEO, and the need for sustainable and predictable funding for UNEP. France suggested that mandatory as well as voluntary contributions to UNEP could be based on the UN scale of assessment as applies to other UN agencies. Kjéll Larsson, the Swedish Environment Minister, made a special appeal to all parties involved to study the proposal on clustering chemical conventions for consideration at the next meeting.

M.V. Moosa, Minister of Environmental Affairs and Tourism of South Africa, expressed his government's commitment as host country for the upcoming WSSD to ensure that the Summit shall be "an opportunity to significantly strengthen the international environmental governance regime." He left the question open of whether his government favours a new or reformed institutional arrangement. Among the guiding principles for a new regime he stressed that the prioritisation of environmental action should be based on the dual imperatives of assessing the level of global impact and favouring the disadvantaged first. Moosa also demanded that environmental concerns be effectively integrated into the world trade and

financial regimes, since without formalised mechanisms a newly constituted international environmental regime will have limited impact on sustainable development.

The Representative of China expressed reservations on the possible formation of a new global environmental organisation. While he agreed that UNEP should have more effective control and be enabled to provide more policy guidance, he stated that in view of the over 40 MEAs currently in effect, each with their own decision-making structure, the legal obstacles must be adequately addressed first. In doing so, the IEG process should also account for the current discussion for reforming the UN system in general. He also cautioned against linking trade with environmental technology as this might increase the reluctance of the developing countries to participate and reduce their contribution to the international environmental governance process.

The Brazilian delegation noted the need to distinguish between technical and political aspects of IEG. To this end, the dialogue between UN agencies and States should exercise more discipline. Responding to the proposal for a systematic approach to co-ordinating MEAs, they expressed doubts as to the usefulness of creating a body to monitor the implementation of MEAs. One would first need to agree on a set of common criteria for comprehensive reports. The delegation mentioned efforts by its own government to involve civil society in implementing individual Conventions by setting up national committees, such as those on Climate Change and Biological Diversity (CBD), which are already in place. Brazil also reiterated that the ineffectiveness of MEAs is largely due to the unfulfilled commitments by the developed States to provide financial resources, capacity building and technology transfer to the developing States.

Cherif Rahmani, Minister of Landscape Development and Environment of Algeria, seconded the statement by the G-77 and China, favouring an evolutionary approach and reinforcing the structure of UNEP. He noted that in addition to hosting the next session of IEG, Algeria is also convening a summit of NGOs of the South (Africa, Asia and Latin America) from 8-10 October 2001. Kenya made an appeal to avoid further geographical dispersal of Convention secretariats and argued in favour of enhancing national capacities of developing countries to implement MEAs.

The US delegate objected to the repeated use of the term "fragmentation" in relation to the proliferation of MEAs and argued in favour of "decentralisation" as being the correct term. The independent status of the various Conventions was intended by the Conferences of Parties in order to ensure a democratic and more flexible approach. He reminded delegates of the recent decision of the US not to underwrite the Kyoto Protocol, and as such State membership to each Convention differs and policies must be co-ordinated on a case-by-case basis. He added that the US supports the GMEF (Global Ministerial Environment Forum) process and would like to see the role of EMG as a co-ordinating body being expanded. In reference to CSD, he also noted the need to clarify how this forum differs from the GMEF.

Beat Nobs of the Swiss Agency of Environment, Forests and Landscape highlighted the shortcomings of the present regime as being (1) insufficient commitment by the States to MEAs; (2) fragmentation of the regime; (3) limited authority of UNEP; and (4) structural/institutional imbalance between the environmental regime and other regimes. He especially lamented:

"Compared with other intergovernmental regimes such as *e.g.* the trade regime or the international financial institutions, the environmental regime is not provided with comparable resources, effective structures and political weight. Moreover, the international environmental regime still lacks an effective dispute settlement mechanism."

In addressing the shortcomings, Switzerland suggested the "double c/double e approach" which entails the general principles and criteria for enhancing international environmental governance: coherence; comprehensiveness; efficiency; and effectiveness. Among the concrete measures, Beat Nobs proposed to strengthen and clarify the role of the EMG. Since it plays a crucial role in ensuring coherence and co-operation between the different institutions involved, one needs:

- "to clarify its mandate, namely, to include explicitly the tasks to provide a platform for co-ordinating activities of its members, to address inconsistencies, and duplications between its members and to monitor their environmental decisions, strategies and policies;
- to ensure that its members participate actively and at the highest level of work;
- [and] to provide the EMG with adequate personal and financial resources."

Another noteworthy proposal came from the delegate of the Czech Republic, who stressed the importance of enforcing UNEP payments by member countries and proposed that voting privileges be withheld for countries in arrears.

### Statements by UN agencies and Convention Secretariats and other IGOs

Mohamed T. El-Ashry, Chief Executive Officer of the Global Environment Facility (GEF) stated that in his view "institutional arrangements for managing global change must perform at least six major functions:

- better integrate environmental and economic development concerns;
- mediate the development and transfer of environmentally benign technologies;
- mobilise new financial resources for sustainable development and for protecting the global commons;
- monitor environmental conditions and trends comprehensively and develop better assessment tools and methodologies;
- negotiate – and track compliance with – international agreements on both the global and regional levels; and
- anticipate and resolve conflict over shared resources and transboundary environmental issues."

He stressed that this does not mean that all these functions should be vested in one organisation. "On the contrary – mainstreaming the environment in organisations such as the World Bank, Regional Development Banks, UN Development Programme (UNDP) or Food and Agriculture Organisation (FAO), is our collective hope for integrating environment and development for achieving truly sustainable development. ... One important weakness is that every organisation wants to do everything", thus resulting in duplication, fragmentation and competition for funding.

He suggested that the international system could be made more effective and efficient by clarifying the environmental roles and mandates of the institutions involved and setting specific and achievable targets for each. However, the lead responsibility should be vested in only one institution so that it will serve to streamline the system and increase its impacts.

"If this were to occur, UNEP would need to have a key role, as it should, in monitoring and assessing the state of the environment, and in identifying gaps and challenges. This has always been the core mandate of UNEP, and I believe it is as important today as it was 30 years ago – not sexy perhaps, but essential." UNEP therefore should continue to concentrate on pooling together all scientific evidence, available data and experiences in order to provide authoritative assessments as the "basis for informed, cost-effective decision-making by governments." UNEP should also maintain oversight over the activities undertaken by other UN organisations in the realm of the environment.

El Ashry's second suggestion pertained to the clustering of organisations with shared environmental responsibilities. He cited the GEF as a model for the clustering of activities. "... The premise is that through a co-ordinated effort in which each agency would contribute to common programme and policy objectives according to its strength and mandate, the combined effort would lead to greater results for the protection of the environment than would be possible by any one agency acting alone." For example, a clustering on water issues could include inter-institutional co-operation between the World Meteorological Organisation (WMO), International Oceanographic Institute (IOC), International Maritime Organisation (IMO) and FAO under the guidance of UNEP.

Michael Zammit-Cutajar, Executive Secretary of the UNFCCC, addressed the question of whether top-down control is desirable at all. Citing experiences from business and industry, as well as politics, he stated that models of governance, where individual actors can freely in-

teract with one another, have performed more effectively than attempts to impose order from above. He reminded delegates that the "fragmentation" of MEAs was the original intention in setting up these agreements so that inter-governmental attention could be focused on an issue-by-issue basis. Through the establishment of such sovereign entities, independent plans of action could be decided on and thus avoid suffering from the impediment of other stalled processes. He therefore stressed that fostering more horizontal co-operation and synergy between the secretariats would be a more productive strategy.

Michael Zammit-Cutajar also voiced his opinion that the geographical dispersal of the institutional locations "eats at the effectiveness – and the budgets – of delegations and secretariats" and called on participating States of the IEG process to break the "taboo" of considering the possible relocation of Convention secretariats. Countering the criticism that there are too many meetings, he stated that the complexities of the agenda and the differences in technical participation necessitate these and that efforts to schedule jointly related meetings would demand advanced process management skills.

The UN Education, Scientific and Cultural Organisation (UNESCO) stressed that the IEG process should focus on helping to improve structures at the national level so that international environmental strategies can be more effectively implemented. UNESCO pledged that it would continue to seek closer co-operation with UN

agencies that are involved in the environmental regime, especially in the sphere of environmental education. The FAO re-affirmed that there could be no progress on environment and sustainable development without successfully combating poverty and hunger. Further, it remarked that the mandates of UNEP and Commission on Sustainable Development (CSD) need to be better distinguished from one another, and called for an improved level of co-ordination through the Environmental Management Group (EMG) to which the FAO would also contribute.

Noting the financial and logistical difficulties preventing developing countries from participating in these proceedings, the representative of the UN Development Programme (UNDP) offered to organise regional meetings on the subject of international environmental governance parallel to the preparatory meetings leading up to the WSSD. He further suggested that the questionnaire presented by the UNEP Executive Director should be forwarded to other UN agencies.

Delmar Blasco, Executive Secretary of the Ramsar Convention on Wetlands, urged the further study of how



GEF Chief Executive Officer Mohamed El-Ashry

Courtesy: IISD

MEAs could significantly contribute to poverty alleviation and sustainable development. He also questioned the need for the continued existence of CSD and proposed that its functions be fully integrated into UNEP and that it should be reformed as the "UN Sustainable Development Programme." Sachiko Kuwabara-Yamamoto, Executive Secretary of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes, outlined the recent efforts to foster more co-operation and collaboration with other convention bodies and UN agencies dealing with chemicals (see page 204). She suggested that regional co-operation represents the best opportunity for garnering immediate results in strengthening environmental governance. In addition, Kuwabara-Yamamoto proposed that, in line with Agenda 21, one should also attempt to increase public awareness of the issues involved in IEG.

On behalf of the International Union for Conservation of Nature and Natural Resources (IUCN), Charles Di Leva highlighted the importance of transparency and public participation, and noted that clear definitions for individual components of IEG are still lacking. Plus, the discussions have focussed too much on the international institutions, but not enough on national and regional institutions. Economic and social policy objectives remain unarticulated as well. A clear, concise statement on plans for alleviating poverty and stimulating investment thus needs to be developed. Di Leva also announced that IUCN is looking forward to collaborating with UNEP on a communications strategy to improve information dissemination.

### Closing Statements

During the course of the discussion Klaus Töpfer, who had to leave early due to another pressing engagement, intervened to say that the representatives should adhere to the items raised on the agenda and refrain from repeating the relationship between the environment and sustainable development, as this link has already been clearly established. On a positive note, the representative of Japan announced that his country would contribute US\$50,000 to help finance the IEG process. Juan Máyr Maldonado, Environment Minister of Colombia, repeated his country's offer to host the next special session of the GMEF at Cartagena, Colombia.

In a provisional summary, acting Chair Karen Redman

outlined the following areas of convergence, which she had gathered from the discussions:

- general support for the international sustainable development component, the principle of common, but differentiated responsibilities, as well as the terms outlined in resolution 53/242;
- increased powers for UNEP as an implementing agency and an evolutionary approach to this end;
- stronger role for the EMG as policy co-ordinator;
- clustering of MEAs in theme as well as location and programmatic support by UNEP;
- the proliferation of meetings contributed to a loss of policy coherence and a reduced impact of the limited resources available;
- paying special attention to the needs and constraints of developing countries;
- the need for additional sources of funding to ensure stable financing, taking note of the idea of instituting the UN system of assessed contributions;
- encouraging more co-operation between UNEP and finance and trade institutions, especially the GEF as the principal financial mechanism for the global environment;
- involving civil society.

During the closing statements, Iran on behalf of the G-77 and China, reminded delegates that they should keep within the definition of the mandate of this Intergovernmental Group and thus referred once more to UN/GA Resolution 53/242, which states that UNEP should avoid involvement in disputes regarding environmental management conflicts.

In closing, UNEP Senior Policy Advisor Bakary Kante urged participants to submit their responses to the questions posed by the Executive Director. He thanked Karen Redman for chairing the meeting and lauded Japan's financial contribution to the IEG process, expressing the hope that other governments would follow this example.

### Notes

<sup>1</sup> See *Environmental Policy and Law*, Vol. 31 (3) 2001, p. 124.

<sup>2</sup> See *Environmental Policy and Law*, Vol. 31 (2) 2001, p. 69.

<sup>3</sup> All these reports and papers mentioned above are available at <http://www.unep.org/IEG/>.

<sup>4</sup> See *Environmental Policy and Law*, Vol. 29 (5) 1999, p. 250.

