

## UNEP/GC SS7-GMEF3

### Extensive Negotiations in Cartagena

#### Wrapping up Talks on Governance

As reported in the last issue on page 16, it was already clear at the onset of the fifth meeting of the Open-Ended Intergovernmental Group of Ministers or their Representatives on International Environmental Governance (IEG) held on January 25 in New York that the final report would be not be ready for adoption. During the meeting, the US delegation introduced a paper\* which criticised numerous passages of the draft recommendations. Among other issues, it opposed enhancing the role and authority of the United Nations Environment Programme (UNEP) and the Governing Council/Global Ministerial Environment Forum (GC/GMEF) beyond their current mandates. They wanted references to converting UNEP into a specialised agency or opening GMEF to universal membership stricken in their entirety. Along these lines, they also opposed a redefined mandate for the Environmental Management Group (EMG) as an instrument for policy coordination at the interagency level. Concerning synergies and linkages between multilateral environmental agreements (MEAs) with UNEP providing policy guidance, they reiterated that this "must be promoted in close consultation and with the full agreement of the Conferences of Parties (COPs)", thereby safeguarding the sovereign status of each MEA.

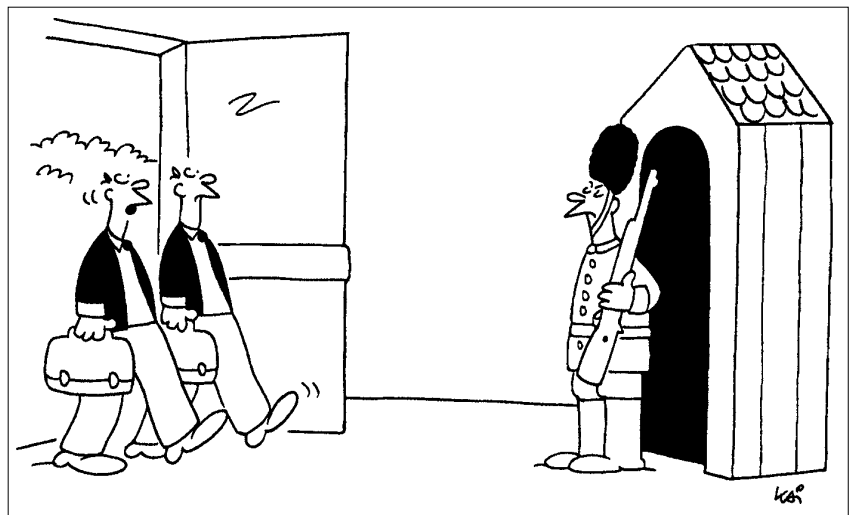
However, not only the US is to be blamed for stalling the process. The Group of 77 and China also complained that a number of their concerns are still not adequately reflected in the paper. They opposed proposals for instituting universal membership, expanding the role of GMEF in detriment to the Commission on Sustainable Development (CSD) and redefining the mandate of EMG. Above all, they were cautious of any passages of text which might imply additional financial burdens for developing countries.

#### Sixth Meeting of IEG

The IEG Group thus reassembled on 12 February 2002 at the Cartagena de Indias Convention Centre in Cartagena, Colombia under pressure to conclude business before the 7th Special Session of the UNEP Governing Council, which was scheduled to begin the following day at the

very same venue. Canadian Environment Minister David Anderson, the current GC President and Chair of IEG, opened the session by stating that there was enough support to continue with the recommendations or "building blocks", as they were referred to in previous meetings, contained in his draft report. After considering the provisional agenda, it was decided to split into two Working Groups which would meet in parallel.

Working Group I, which was chaired by Philippe Roche (Switzerland), addressed unresolved issues of the following three "building blocks" or draft recommendations: the role and structure of the GMEF; the role, authority and financial situation of UNEP; and the role of EMG. Minister Miyingo Kezimibira (Uganda), chaired Working Group II which considered the remaining three "building blocks": improved coordination and coherence between MEAs; capacity building, technology transfer and country level coordination; and future perspectives. How-



"Corporate Governance may be great, but I would prefer to see a nice receptionist ..."

Courtesy: FAZ

ever, it soon became clear that both Groups would not be able to resolve all issues, forcing the deliberations to continue into the GC/GMEF.

#### Working Group I

Regarding the role and structure of the GMEF, a substantial portion of time was devoted to discussing the *pros* and *cons* of universal membership as opposed to universal participation in GMEF and its relationship with other autonomous bodies, such as multilateral environmental agreements (MEAs). Following a proposal by Venezuela, on behalf of the G-77/China, Chair Philippe Roche revised the text to state that the GMEF is constituted by

\* Note by the editor: this paper was previously unavailable to us.

UNEP GC as proposed in UN General Assembly Resolution 53/242.<sup>1</sup> Spain, on behalf of the European Union (EU), objected to this as this limited extensive reforms it had originally envisioned. The creation of an intergovernmental scientific panel for the global environment involving civil society participation was also suggested. This was, however, met by opposition from the G-77/China and Canada. Further, the US voiced criticism of references to coordinating joint activities with MEAs, for which the EU demanded the preparation of a strategy paper.

Concerning the matter of securing adequate, stable and predictable funding for UNEP, it also became clear that most questions would require further substantial negotiation and it was resolved to establish a special Contact Group to be chaired by John Ashe (Antigua and Barbuda). After initial deliberations on a non-paper provided by him, he was able to deliver a first progress report during the evening session. The Contact Group, however, needed more time and it was agreed to reconvene the following day.

While there was general agreement that EMG has significant potential to enhance the coordination of policy matters related to the environment within the UN system, a substantial number of delegates opposed the redefinition of its mandate as contained in 53/242. As commented during earlier meetings, several State delegates called for a clearly defined reporting relationship with the GC/GMEF as well as with CSD. The US delegation also highlighted the need to clarify from where funding for its various activities should originate. During the evening session, Chair Philippe Roche was able to present a revised text on this subject which required only a few minor amendments before adoption by the Group.

After a lengthy debate in the afternoon and evening sessions, and consultations with IEG Chair David Anderson, the Group agreed to reconvene on Wednesday afternoon, 13 February. As GC President, David Anderson urged delegates to stick to a realistic timetable in order not to alter materially the proceedings of the GC/GMEF.

### Working Group II

In promoting synergies and linkages, the EU called for the development of a functional programme-based clustering approach and for greater cooperation between the GC/GMEF and MEAs. The US, however, only wanted limited functional collaboration, while issues related to compliance should be kept under separate jurisdictions. The G-77/China and Australia supported this approach, while Canada objected. The EU, with support from Norway, thereupon suggested that coordination could be directed towards compliance monitoring. Furthermore, the EU called for promoting co-location of new MEA secretariats, in order to avoid further fragmentation and prevent new locations whereas the G-77/China asked to include language on promoting new locations in developing countries. The Working Group was unable to reach a consensus on the issue of compliance and deferred it to the following day.

On capacity-building, technology transfer and country-level coordination, the EU and the G-77/China had

numerous objections as they felt that their proposals were not accurately reflected. The G-77/China lamented that this section lacked adequate emphasis on technology transfer and demanded that the text refer to access to and transfer of environmentally sound technologies to developing countries. In addition, UNEP's role in capacity building and its strategic partnership with the Global Environment Facility (GEF) must stay within the established terms of reference as contained in 53/242. The US also reiterated that this should be confined to its existing relationship and objected to reference to a "strategic partnership".

The EU delegation further criticised that the text only referred to the mobilisation of resources at the international level, seeking mention of the regional and national levels as well. The G-77/China insisted on adding the mobilisation of additional sources for Official Development Assistance (ODA), while Australia and the EU preferred reference to the mobilisation of all types of resources. Reference to the UNEP/GEF Action Plan of Complementarity was also debated. At the end of the day, delegates were still not satisfied with the text and it was agreed to further consult on it the following day.

In contrast to the foregoing "building blocks", the outstanding issues regarding the section on the Future Perspective were easily resolved. The US insisted on an accurate reflection of the Malmö Declaration which proposed that the WSSD should review the requirements for a greatly strengthened institutional structure,<sup>2</sup> while the G-77/China sought inclusion of the principle of common, but differentiated, responsibilities.

The Plenary was reconvened at the close of the day in order to hear the reports of the two Working Groups. It was evident that little progress was achieved save for the points on EMG and Future Perspectives and that they would need more time for further negotiation, especially the Contact Group on Financing. Considering that the Governing Council where the report was due – and ultimately to be adopted – was scheduled to begin the following morning and to last only three days, delegates became unnerved about whether the IEG negotiations could be successfully concluded and thus make it to the negotiation table at Johannesburg. They feared that if they failed here, this would spell doom to other connected processes such as the upcoming Conference on Financing for Development at Monterrey and the ongoing negotiations on sustainable development governance at the WSSD PrepComs (see page 60).

The remaining discussions of the two Working Groups and the final report and its recommendations for IEG will be covered in the following sections.

## Governing Council and Global Ministerial Environment Forum

### Opening Plenary

The 7<sup>th</sup> Special Session of the UNEP Governing Council (GC) and 3<sup>rd</sup> Global Ministerial Environment Forum (GMEF) opened on Wednesday morning, 13 February 2002. GC President David Anderson (Canada) reminded

participants that this was a momentous opportunity to address the shortcomings in environmental governance. In order to overcome the gaps between goals identified at and results achieved since the United Nations Conference on Environment and Development (UNCED) held at Rio de Janeiro in 1992, all parties involved should work toward finding a common formula for strengthening the international environmental architecture within the context of sustainable development.

Nobel Peace Prize Laureate Rigoberta Menchú in her keynote address also made special reference to the GC agenda point on IEG, underlining governance as the central issue of this meeting as well as one of the most sensitive questions to be addressed at the World Summit on Sustainable Development (WSSD) later this year. Recalling the decisions undertaken at UNCED, she stated that the "Rio ship has been left at the mercy of political will of the relevant political bodies to bring it to a safe port". She lamented the lack of institutional and financial support. Clearly, political will is required to bring forward the agenda for sustainable development and the willingness of all actors involved to agree on an architecture for environmental governance.

UNEP Deputy Executive Director Shafqat Kakakhel delivered a special message on behalf of UN Secretary-General Kofi Annan, which among other issues focused on deliberations on ensuring a stable financial footing for UNEP, which he regarded as an indispensable prerequisite for sustainable development. UNEP Executive Director Klaus Töpfer also urged the GMEF to be ambitious in order to stimulate UNEP's service to the global community. On behalf of the host country, President Andrés Pastrana welcomed participants and gave an overview of environmental initiatives in Colombia. He also noted that the war against drugs must be continued not only for obvious political and social reasons, but also in order to mitigate its detrimental impact on the environment.

The IEG's Contact Group on Financing reassembled later that morning to consider the revised proposals by Chair John Ashe (Antigua and Barbuda). However, progress was hampered by discussions of "differentiated capabilities" as opposed to "differentiated responsibilities". A suggestion that donations should be based on levels of national responsibility for environmental degradation was quickly dismissed. Working Group II convened briefly during the afternoon in order to discuss the revised text by its Chair Miyingo Kezimibira (Uganda), while Working Group I did not meet until Thursday.

### GC/GMEF Ministerial Consultations on IEG

During the afternoon session, GC President Anderson drew attention to the Executive Director's Report on IEG (UNEP/GCSS.VII/2) and noted that the IEG Group is yet to deliver its report and that it would most likely contain large

portions of bracketed texts. He appealed to the Ministers present to provide political guidance for resolving these issues in time. After an intervention by Achim Steiner, Director General of the International Union for the Conservation of Nature and Natural Resources (IUCN), who also addressed the governance debate and called for more civil society involvement, the Chairs of the two IEG Working Groups were invited to present reports on the negotiations so far. Working Group I Chair Philippe Roche (Switzerland) stressed that the absence of an opportunity for true negotiation in earlier sessions had made work difficult. A substantive number of last-minute amendments to the recommendation on GMEF prevented a timely conclusion. In a separate statement, the Chair of the Contact Group on Financing summarised the two remaining divergences of opinion as relating to the disagreement on ways of strengthening UNEP's Environment Fund and whether to apply mandatory or voluntary forms of assessed scales of contributions.

The floor was then opened for statements by Ministers. Venezuela, on behalf of the Group of 77 and China, made a general statement in support of strengthening UNEP in conformity with its mandate, and stressed that plans for promoting synergies and linkages between multilateral environmental agreements (MEAs) must respect the autonomous decision-making authorities of the Conferences of Parties (COPs). Spain outlined the position of the European Union (EU) which among other points called for instituting universal membership for the GMEF and for using the UN scale of assessments in determining the level of membership contributions to the Environment Fund. It soon became evident that the Ministers took this round of talks only as an opportunity to restate their countries' positions, which had already repeatedly been pre-



Nobel Peace Prize Laureate Rigoberta Menchú addresses the Plenary

Courtesy: IISD

sented during the meetings of the IEG Group. For example, Germany repeated its call for transforming UNEP into a World Environment Organisation (WEO) comparable to the World Trade Organisation (WTO).

The Norwegian delegation once more forwarded a proposal to elevate the post of the UNEP Executive Director to that of a High Commissioner for the Global Environment. The representative of China reiterated that UNEP is in need of increased political and financial support. More funds should be set aside from the UN budget and, in determining the level of member contributions, the principle of common, but differentiated responsibility should be respected. India lamented that the failure to reach a consensus was due to a fundamental lack of trust between developing and developed countries. It called for more confidence-building measures since a great number of developing countries suspect a hidden agenda behind the plans for a reform of the IEG architecture.

At the end of the afternoon session, President David Anderson announced that Ministers Juan Máyr (Colombia) and Michael Meacher (United Kingdom) would convene an informal contact group in order to ensure that the IEG negotiations are concluded on time. In the corridors of the meeting hall, one overheard countless criticisms of the IEG process. Progress on the text should have been made earlier, preventing the addition of substantive amendments at this stage. However, the establishment of a contact group at the ministerial level was seen as a promising step toward achieving consensus. In response to comments about the apparent "hopeless situation", a delegate retorted "90 ministers do not gather in Cartagena for a hopeless process!"

The following morning, further country statements were heard. The representative of Iran called for an increased share from the UN regular budget to cover UNEP's administrative costs and for securing additional funding from the private sector. Minister M.V. Moosa, on behalf of the host nation for the WSSD, South Africa, stated that in designing a new architecture for IEG developing countries should be given a stronger voice. Indonesia, which is to host the final session of the Preparatory Committee for WSSD (PrepCom-IV) beginning in late May, referred to the ongoing discussions on sustainable development governance within which IEG is to be integrated.

#### **Informal Open Contact Group on the Ministerial Level**

The ministerial-level contact group first met during the evening session on Thursday. The ambit of the developed countries focused on strengthening the environmental pillar of sustainable development through an improved international environmental architecture – hence their emphasis on the role and structure of GMEF and Environmental Management Group (EMG). On financing, they wanted to ensure that they get their "buck's worth" as evidenced by the increasing trend toward the earmarking

of contributions. Although over recent years UNEP has raised its international profile and improved its competence on key policy areas – in no small part through the invigorated leadership of its Executive Director Klaus Töpfer – donor countries have come under pressure by their domestic constituencies to justify contributions to international development organisations (who suffer from the image of mismanaging funds) and thus tend to look for concrete projects that promise to give tangible short-term results.

Developing countries sought to strengthen the economic pillar of sustainable development and thus on the issue of financing were careful to be on the receiving end – hence their emphasis on capacity-building, technology transfer and ascertaining further international aid for implementing MEAs on the national level. The repeated interjections by the G-77/China to stay within the confines of the original mandate of UNEP as well as UN General Assembly Resolution 53/242, thus frustrated proponents of strengthening the environmental pillar.

Under no circumstance did the US wish to see that COPs of MEAs relinquish their sovereign rights, maintaining that the issue-based approach guarantees desired flexibility in decision-making.

Thus it opposed any language further delineating the relationship between the GC/GMEF and MEAs, as it deemed it "a recipe for disaster". Furthermore, it carefully guarded MEA control over compliance, enforcement and finance issues. The US also firmly opposed initiatives to enhance UNEP's mandate, especially in regard to the phrase "with a view toward establishing a WEO" which the EU sought to add on repeated occasions. G-77/China and the Russian Federation also raised objections to this idea. Proposals for converting UNEP into a specialised agency were blocked by the same parties. Recalling the phrase uttered by the Global Environment Facility (GEF) Chief Executive Officer Mohammed El-Ashry during an earlier IEG meeting – the core mandate of UNEP is "not sexy, but essential"<sup>4</sup> – they insisted that UNEP should continue to build on its existing strengths. Thus, the final IEG document re-emphasises the role of UNEP as being the authority for providing scientific assessment in aiding governments in informed, cost-effective decision-making.

#### **Contact Group on Financing**

The recommendation on strengthening the financial situation of UNEP merits special attention as it was the most controversial topic and took the longest to conclude. When Financing Contact Group Chair John Ashe introduced another draft on Thursday evening, Spain dropped the bombshell that it had not been mandated by the EU to accept any concrete terms on financing. In addition, the US interjected that some text on finance in the draft IEG report had not yet been discussed.

The informal Group met once more for a late-night session (which began at 11 pm!) and a final morning ses-



sion on Friday to consider the revised text prepared by Co-chair Michael Meacher. On financing, the G-77 put forward a motion, which was seconded by the US, to postpone the issue indefinitely. The EU, however, offered a compromise solution by adding a statement that at the 2004 session of the Governing Council the Executive Director will submit a report on the implementation of the provisions on financing, thus making their effectiveness subject to review. This enabled inclusion of the recommendations on financing in the final text. Thus, the complete IEG report was ready for consideration by the Closing Plenary on Friday afternoon.

Since the US, Australia and Japan opposed a binding scale of assessments from the onset, a voluntary indicative scale of contributions (ISC) was agreed on, to be developed specifically for UNEP's Environment Fund, "taking into account ... the United Nations scale of assessment." Yet, with the many alternatives put forward and States announcing that certain terms were categorically unacceptable to them, a menu of options was drafted, so each Member State can freely choose either on the basis of the ISC or any of the following: (a) biennial pledges; (b) United Nations scale of assessment; (c) historical level of contributions; or (d) any other basis identified by a Member State.

Option (d) has been characterised as an opt-out clause which especially suited the EU since it did not have a unified mandate to accept a decision on financing, as its Member States currently contribute to UNEP at highly varying levels. Most Southern European countries and prospective Member States from Eastern Europe contribute little or nothing at all. The majority of Northern European countries, by contrast, provide above and beyond the average amount. By choosing the indicative scale of assessments, it was hoped to promote the level of contributions from the more affluent States which to date have only made modest contributions. The ISC (as opposed to a mandatory system of scaled assessments) also has the added benefit of providing political cover for countries who donate above average amounts and thus might come under fire from their domestic constituencies.

### Committee of the Whole

While the Ministerial Consultations on IEG were taking place, the Committee of the Whole chaired by Tupuk Sutrisno (Indonesia) gathered in separate meetings. During the first two days they reviewed progress on imple-

mentation of the GC decisions from its 21st session as contained in the Report compiled by the UNEP Secretariat (UNEP/GCSS.VII/INF/7). The other documents that were prepared by the Committee and which were adopted by the Governing Council are listed at the end of the following section.

### Closing Plenary

During the final afternoon session on Friday 15 March, the IEG report was formally adopted. Despite calls by the US delegation during the fifth IEG meeting in New York to delete the first two sections on the background and history of the IEG initiative, these were retained in the final document. The complete text of the recommendation is reprinted on page 113. The accompanying decision (SS.VII/1) invites the GC President to transmit the an-



Governing Council President David Anderson (Canada) and Minister Juan Máyr (Colombia)

Courtesy: IISD

nexed report as well as the Executive Director's report to PrepCom-III where it is to be integrated into a further reaching decision on sustainable development governance (see page 62) for review and further consultation at WSSD. The next session of the GC/GMEF is then to review the implementation of the recommendations contained in the report, subject to the outcome of WSSD.

Although David Anderson's "building block" approach was criticised for not allowing enough opportunity for negotiation, it was viewed in hindsight as the only feasible approach in order to arrive at a successful conclusion of talks. As time was running out with the beginning of the GC/GMEF, informal consultations at the ministerial level also played no small part in keeping the document alive. Admittedly, there are many gaps left within the individual recommendations, but it is now up to the PrepCom, and ultimately the WSSD, to render a final decision. It is hoped that a decision by the Heads of State and Government who have the appropriate leverage (found

lacking by environmental ministers) will move forward effective action on IEG. After all, the emphasis of WSSD will be on implementing the commitments of Agenda 21.

Among other decisions adopted was the *Contribution of the GC/GMEF of the United Nations Environment Programme to the World Summit on Sustainable Development* (SS.VII/2) which includes as an appendix a Statement of the GC President (see also the report on PrepCom-III on page 62). In it, the UNEP Executive Director is requested to further contribute to the preparatory process “and to take appropriate action within the mandate of the United Nations Environment Programme in the follow-up to the outcome of the Summit and report thereon to the Governing Council at its twenty-second session.”

The decision on *Compliance with and enforcement of multilateral environmental agreements* (SS.VII/4) is re-

printed in full on page 117. The remaining decisions adopted are listed in the following: *Strategic approach to international chemicals management* (SS.VII/3); *Enhancing civil society engagement in the work of the United Nations Environment Programme* (SS.VII/5); *Implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities* (SS.VII/6); and the *Environmental Situation in the Occupied Palestinian Territories* (SS.VII/7).<sup>5</sup> (MAB)

### Notes:

- <sup>1</sup> Reprinted in full in *Environmental Policy and Law*, Vol. 29 (5) 1999, p. 250.
- <sup>2</sup> See *Environmental Policy and Law*, Vol. 30 (4) 2000, p. 201.
- <sup>3</sup> See *Earth Negotiations Bulletin*, Vol. 16 (22), p. 2.
- <sup>4</sup> See *Environmental Policy and Law*, Vol. 31 (4-5) 2001, p. 197.
- <sup>5</sup> Available for download at the UNEP website at [www.unep.org/governing\\_bodies/gc/specialsessions/gcss\\_vii](http://www.unep.org/governing_bodies/gc/specialsessions/gcss_vii).

