

Contributing to the Realisation of the Johannesburg Commitments

The 22nd Session of the United Nations Environment Programme (UNEP) Governing Council and the 4th Global Ministerial Environment Forum (GMEF) was convened at UNEP headquarters in Nairobi, Kenya, from 3 to 7 February 2003. Owing to the fact that this was the first high-level meeting following the World Summit on Sustainable De-

velopment (WSSD), Johannesburg, South Africa,¹ there was a very high turnout in comparison to previous sessions. Close to one thousand participants ranging from government representatives, officials from intergovernmental organisations (IGOs) and UN bodies to observers from civil society organisations (CSOs) were present.

Preceding the Session were two other important meetings in Nairobi:

- *Ad Hoc* Meeting of Judges for the Development of a Plan of Work as a Follow-up to the recent Global Judges Symposium on Sustainable Development and the Role of Law from 30 to 31 January; and
- 4th Global Civil Society Forum from 1 to 2 February. Delegates also met in regional groups on 2 February.

The central theme was determining how UNEP could best participate in the realisation of the Johannesburg Plan of Implementation (PoI) with a special focus on its recommendations for regional action and for international environmental governance. Other major topics under discussion were: New Partnership for Africa's Development (NEPAD), the promotion of sustainable production and consumption patterns, and sustainable development and poverty alleviation, including UNEP's contribution to the WSSD biodiversity commitments.

A heavy agenda – not to mention the plethora of background and information documents made available – was put before the participants, which some thought to be overly ambitious. Immediately prior to the Governing Council, the Committee of Permanent Representatives (CPR) released a series of revised draft decisions contained in UNEP/GC.22/L.1 with a total of 69 pages thus further complicating matters and increasing the workload for the delegates. Delegates were in a scramble to review the new versions which replaced the texts that had been circulated earlier. Adding to the volume of different versions of draft decisions, additional Conference Room Papers and draft decisions by individual States were also submitted for consideration by the delegates.

Opening Plenary

The 22nd Session of the Governing Council was opened on Monday morning, 3 February, by outgoing President David Anderson, Environment Minister of Canada. He highlighted the achievements during his two-year tenure, including the signing of the Stockholm Convention on Persistent Organic Pollutants (POPs). He made particular mention of the deliberations on improving International Environmental Governance (IEG), which had been concluded at the 7th Special Session. The report containing a



President of the GC, with the Executive Director on the left and Beverly Miller

Courtesy: IISD

set of recommendations was submitted to the preparatory process leading up to the WSSD. Now that these have been endorsed by the World Summit, the first critical step

has been taken. He also noted the significant number of governments who have increased their financial contributions for UNEP as a sign of support and confidence.

UNEP Deputy Executive Director Shafqat Kakakhel delivered a message from UN Secretary-General Kofi Annan stressing the critical role in developing a programme that contributes to implementing the outcomes of the WSSD. Since “protecting the environment and fighting poverty were often two sides of the same coin,” he quoted, the task ahead for UNEP was to keep building on the momentum generated by the Plan of Implementation and by the pledges made at the International Conference on Financing for Development in Monterrey, Mexico.

UNEP Executive Director Klaus Töpfer said that he was pleased to welcome participants to Kenya shortly after democratic elections and peaceful transition of government – a fact that numerous other speakers would congratulate the host government on. He reaffirmed that Nairobi is the environment capital of the world and stressed the importance of UNEP headquarters in Africa. In reference to the Plan of Implementation he stressed its link to partnerships and stated that “UNEP is accountable for putting it into practice!” In this regard, the first priorities are to address poverty, to ensure sustainable patterns of consumption and production and to integrate the work of the environmental conventions. He closed by stating that the Johannesburg theme of “responsible prosperity for all” implied that trade liberalisation and globalisation worked for the poor.

Arthur Chaskalson, Chief Justice of South Africa's Constitutional Court, reported on the recent *Ad Hoc* Meeting of Judges (see report on page 56) and on behalf of the host government Environment Minister Newton Kulundu reported on the new government's domestic policy initiatives, and voiced support for the New Partnership for Africa's Development (NEPAD).

Organisational Matters

The plenary turned to organisational matters and elected Ruhakana Rugunda, Minister of Water, Lands and Environment of Uganda, as President of the Governing Council/GMEF. Suk Jo Lee (Republic of Korea), Juan Pablo Bonilla (Colombia) and Tanya van Gool (the Netherlands) were elected Vice-Presidents and Václav Hubinger (Czech Republic) Rapporteur. The new GC President then addressed the Plenary thanking the Government and people of Kenya for their hospitality. The agenda and organisation of work was adopted next. It was decided to establish two sessional committees: a Committee of the Whole (COW) and a Drafting Group. These would meet for the first time in the following afternoon session, while the Plenary continued meeting in parallel.

Group Interventions

Wrapping up the opening plenary, the floor was opened to interventions from representatives of various groups. On behalf of the Group of 77 and China (G-77/China), Moroccan Ambassador Mohammed Charibi said that since this was the first high-level meeting after Johannesburg which, in addition to reaffirming previous commitments,

set new goals and targets, it was time to for a first stock-taking and underscoring of the need to take immediate and concrete action. Acknowledging the role it is to play in implementing the environmental aspects of the PoI, he stated that the G-77/China fully supports the strengthening of UNEP within its existing mandate, including the improvement of its finances.

Commenting on the agenda, the speaker also welcomed the emphasis on regional implementation of the WSSD with a particular view to the African Continent:

“The focus on Africa in the current session is in line with the adoption of the UN Declaration on NEPAD by the General Assembly in September last year. We expect that NEPAD will prove to be a successful example for similar partnerships in other regions.”

As another point, the Ambassador added that greater and increased involvement of civil society organisations in UNEP should be encouraged and facilitated. To this end, the G-77/China had submitted to the CPR proposals to formalise accreditation criteria and procedures in order to enhance their participation in UNEP through clear channels. In one of his final points, he drew special attention to UNEP’s desk-study report on the environmental situation in the Occupied Palestinian Territories (UNEP/GC.22/2/Add.6, see also page 67) and called for concrete measures to alleviate the environmental deterioration in that area.

The Greek Ambassador Ioannis Korinthios, representing the European Union (EU), emphasised that the Union believes that UNEP has a decisive role to play in the implementation of the environmental dimension of sustainable development. Future work should avoid duplication and overlapping, hence there is a need for reinforcing synergies and active coordination with the United Nations system and Bretton Woods institutions. He listed the following issues that need to be urgently addressed by the Governing Council:

- sustainable consumption and production;
- a global mercury assessment;
- a strategic approach to the safe management of chemicals;
- IEG, with increased participation of civil society;
- biodiversity loss;
- marine transport of hazardous substances;
- and the regional implementation of WSSD outcomes.

The Union, the Ambassador pledged, would remain progressive and constructive to ensure results-oriented follow-up at the international level, based on good governance, and would be supportive of regional cooperation in all matters of implementation of the outcomes of the World Summit.

Plenary

UNEP Executive Director Klaus Töpfer introduced his reports on the *State of the Global Environment* (UNEP/GC.22/2 & Add.1-7) and *Policy Responses of UNEP to tackle Emerging Environmental Problems* (UNEP/GC.22/3). He took care to note the environmental assessment and early warning activities, which are the cornerstones of

UNEP’s work, and highlighted the need to enhance the scientific basis thereof. The plenary was then opened for statements by State Delegates and representatives of inter- and non-governmental fora. As per the agenda, the discussion turned to the outcomes of the WSSD and linkages among environment-related conventions, with a particular focus on chemicals, trade and water issues. A number of delegates also commented positively on the



Committee of the Whole drafting

Courtesy: IISD

third Global Environmental Outlook report (GEO-3) that was released last year.

Chemicals Management

Delegates welcomed conclusions of the *Global Mercury Assessment Report* (UNEP/GC.22/2/Add.1). Sweden presented two additional reports on lead and cadmium, which share many characteristics in that they are not degradable and present health hazards on a global scale. Acting as Chair of the Senior Arctic Officials in the Arctic Council, Iceland in an earlier statement had also drawn attention to the issue of mercury pollution which has a severely detrimental impact on indigenous peoples in the region, compounded especially through the food chain. Since all sources of pollution lay outside the region, Iceland reiterated the necessity of concerted international action and thus called for further mercury assessments, as well as other initiatives to protect the Arctic marine environment.

During the course of the discussion, the EU and Norway spoke in favour of an international legally binding instrument on mercury, while Colombia, the Czech Republic and Mexico suggested that legislative action on heavy metals would be more effective on a regional and national level. The issue was deferred to the Drafting Group, in which a special contact group was established in order to deal with all matters connected to Chemicals.

Trade and the Environment

In its discussion of trade and the environment, a UNEP official explained that the Programme’s main focus in this regard was to enhance the capacity of countries to take the environment into account in their trade policies. He noted the agreement of the fourth Ministerial Conference of the World Trade Organisation (WTO), held in Doha, Qatar, as well as the WSSD PoI which called for increased cooperation between WTO and UNEP. In the following debate, delegates were generally supportive of UNEP’s plans to enhance synergies and dialogue with and between

Multilateral Environmental Agreements (MEAs) and to develop a framework for integrated planning in order to assist governments to deal with economic, social and environmental aspects in order to reduce poverty, improve market access and achieve sustainable trade. A number of representatives felt that UNEP should be more involved in WTO negotiations on trade and the environment, particularly in its Committee on Trade and Environment.

Water

In view of the Millennium Declaration and the circumstance that 2003 is the International Year of Freshwater, the Executive Director introduced a discussion paper on water issues in the context of the WSSD outcomes concerning water and sanitation. He also drew attention to various assessment and observation programmes carried out by UNEP not only on freshwater, but also on coastal and marine environments, including the Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities (GPA).

Other Items

Among other items discussed were Biological and cultural diversity; Coordination and cooperation within and outside the UN, including NGOs; and IEG.² The discussion on the role of civil society restricted itself to reports from NGO representatives on the Global Civil Society Forum mentioned earlier. Concerning IEG, the debate focused on the establishment of an Intergovernmental Panel on Global Environmental Change (IPEC) which, following a proposal of the PoI, is to assist UNEP in monitoring and assessing global environmental change. Several countries said that they were waiting for the results of the ongoing negotiations of a contact group formed on this issue.

Committee of the Whole

At its first meeting, GC Vice-President Tanya Van Gool (The Netherlands), serving as COW Chair, outlined the issues tabled for the agenda which were, *inter alia*: state of the environment; the role of civil society; IEG; follow-up of UN General Assembly Resolutions; UNEP's contribution to future sessions of the Commission on Sustainable Development (CSD); and the UNEP biennial programme, Environment Fund, and administrative and other budgetary matters. Concerning the programme and budget, several delegates requested that a contact group be formed.

It was decided that the Drafting Group was to deal with the draft decisions prepared by the CPR and other submissions of draft texts. The acting CPR Chair Juergen Weerth (Germany) was designated to chair this group which met for the first time on Tuesday morning. It undoubtedly had to carry the largest share of the week's workload as it often met late into the night. As was expected, delegates were at first hesitant to reach a compromise on any issue as they were careful not to make too many concessions before their ministers arrived on Wednesday. Even the draft decisions that had been previously approved by the CPR were reopened for negotiations.

In addition to the Budget contact group, several other contact groups were formed on the more touchy issues such as the promotion of sustainable consumption and production patterns and chemicals. Thus, the resulting number of negotiation fora taxed a number of the smaller delegations beyond their resources who were unable to send a representative to each.

What follows is a brief summary of the most notable points that were raised in the COW's discussion of the agenda items, particularly *vis-à-vis* the State of the Environment and the strengthening of the scientific base of UNEP. It should be noted at this point that several items on the agenda of the COW were also discussed in the Plenary and GMEF. In fact, several delegates were heard to give nearly the same speech in different meeting segments. Criticism was voiced that the agenda for all meeting segments could have been more efficiently organised in order to avoid the duplication of items under discussion.

State of the Environment

Among other comments made by delegates, Syria objected that the desk study report on the environmental situation in the Occupied Palestinian Territories went beyond the original UNEP mandate. It requested that the document be redrafted. In particular, a number of sections dealing with Israel's role in environmental cooperation in the region should be deleted.

The representative of India objected to a UNEP study which referred to an "Asian brown cloud," arguing that this phenomenon is actually a haze which has also been observed in other regions of the world and is in need of further scientific study in order to determine conclusively its origins and effects. He added that there were other, more pressing items on the agenda. The Drafting Group was later to drop a draft decision which was submitted on this subject.

The Iranian delegation made an intervention in order to raise concern over recent developments in the trans-boundary Hour-al Azim wetlands on the south-western border of Iran. They reported that over the past months dense smoke caused by the burning of reed-beds in the neighbouring country had frequently spread into this area. Because of its deleterious effects on the local environment, Iran requested UNEP to prepare an assessment report which would serve as the basis for further follow-up. Turkey added that it had also observed such smoke along its border with Iraq and that it is evident that it came from deliberate fires. The Iraqi representative responded that this smoke was a natural phenomenon and by no means was foul play on the part of their government.

Strengthening the Scientific Base of UNEP

In relation to strengthening the scientific base of UNEP, the COW also dealt with the IPEC proposal. Delegates agreed on the need to strengthen UNEP's capacity and the links between science and policy-making, but found that further consultation was needed in order to determine the modalities for addressing the problem. The delegations of the United States, Japan and Brazil opposed further consideration of the IPEC proposal, while those of

Norway, Canada and South Africa insisted on the establishment of another contact group on this issue.

Ministerial Segment/GMEF

On 5 February, President Ruhakana Rugunda opened the high-level segment. In his introductory remarks, UNEP Executive Director Klaus Töpfer highlighted the challenges facing Africa, asserting that "putting poverty to the sword should be our mantra." UN Under-Secretary-General for Economic and Social Affairs, Nitin Desai, suggested that the CSD could add value by supporting the integration of economic, social and environmental considerations. Following further statements by the UN-HABITAT Executive Director Anna Tibajuka and Kenyan Vice-President Michael Kijana Wamalwa, four ministerial discussion segments relating to the implementation of the WSSD outcomes were held on the following topics: NEPAD, UNEP's role in regional implementation; sustainable production and consumption; and contribution to WSSD biodiversity commitments.

NEPAD

Abdoulaye Wade, President of Senegal, in his capacity as coordinator of the environmental aspect of NEPAD delivered the keynote speech for the first discussion segment. He declared that NEPAD (with the assistance of GEF and UNEP) is currently in the final phase of preparing an action plan for its environmental facet. Together with AMCEN (African Ministerial Conference on the Environment) they have set the target for June 2003 for presenting the Plan. President Wade also announced the establishment of an interim Secretariat for the environmental sector of NEPAD in premises already made available in Dakar, Senegal. In addition, a series of expert meetings would be held in order to concretise various projects in connection with conservation of the environment, sustainable development and the fight against poverty.

In addition to these steps, the Senegalese President outlined what further needs to be done:

"NEPAD has in theory made much headway, but I believe that our continent cannot sit back any longer if it desires to be part of the globalisation process prevailing on our planet.

That is why, in my view, parallel to this theoretical process, concrete actions must be taken to maintain the willingness and commitment of those who have believed in this process and who must help our continent to halve by 2015 the rate of poverty, as stipulated in the Johannesburg PoI relating to food, drinking water, health and energy to name but a few."

Among other suggestions, he emphasised the need for the establishment of a high authority for the enhancement of the value of deserts which "should not be conceived as

a fatality but rather as an opportunity to be seized and exploited to maximum benefit."

Abdoulaye Wade closed with the words:

"It is the duty of each African today to equip themselves in order to be able to implement the recommendations of the WSSD, which I must add endorsed NEPAD as a prerequisite to Africa's development."

Valli Moosa, South Africa's Minister of Environmental Affairs and Tourism, summarised the most important outcomes of WSSD. As recently designated Chair of the upcoming 11th Session of CSD he emphasised that it should not be "business as usual", but it should embark on a completely new phase in order to develop a programme of work to ensure action for the follow-up of commitments made at WSSD. Deeming the IEG reform especially important in order to ensure a strong, well-supported and well-resourced UNEP, he pointed out that CSD is not an



Plenary

Courtesy: IISD

umbrella body, but serves as a platform for dialogue and integrative discussion among the various institutions that have a stake in the implementation of sustainable development at all levels.

Next Amara Essy, Secretary-General of the African Union, reported on the links of his Organisation with the work of NEPAD. Greece described how the EU is actively contributing to this and other regional and sub-regional initiatives, highlighting especially the partnership projects on water and energy that were launched at Johannesburg. During the course of the interactive dialogue, Ministers overall concurred that the comprehensive development strategy targeted by NEPAD is an important first step in promoting peace and development in that region. It demonstrated the commitment by African nations to enhance solidarity between them and work together toward sustainable development with the aim of poverty reduction, as well as greater economic cooperation and integration into the globalisation process.

A number of participants pointed out that the success of NEPAD also depends on support by the international community and criticised donor countries for not yet living up to the financial commitments contained in the Johannesburg document. It was also lamented that trade barriers prevented the export of African products. One participant added that the lofty goal of halving poverty by 2015 as contained in the Millennium Declaration would require minimum annual growth rates of 7 per cent every year – which is significantly higher than the historical trend. Internal strife and conflict was also addressed as a significant factor which impedes sustainable development in this region. On this point, it was noted that many of these conflicts resulted from questionable electoral practices and thus good governance was stressed as an important prerequisite for stability in the region.

Regional Implementation and the Role of UNEP

Regional implementation of WSSD and the role of UNEP was the subject of the consultations in the following afternoon. The Executive Director introduced several background papers, among these the most notable document being UNEP/GC.22/8/Corr.1, which contained the following questions to be considered:

- Are UNEP's proposals for the implementation of the regional and subregional initiatives and the outcome of the WSSD, as contained in the regional annexes, in line with the delegates' expectations?
- UNEP is increasingly involved in initiatives at the regional and subregional levels. How can this development assist in implementing UNEP's Cartagena mandate of capacity building at the national level?
- How could UNEP increase its presence at regional and subregional levels?
- What role could regional forums of environment ministers play in the formulation and follow-up of policies as decided by the GC/GMEF?
- What are the main specific areas of support that UNEP should focus on in NEPAD's implementation phase?

Participants agreed that the main thrust of UNEP's work at the regional, subregional and national level should be capacity building and technology transfer, preferably through a "bottom-up" approach. This would require further decentralisation of UNEP and greater commitment and funds to its regional offices. A few participants commented on the on-going negotiations within the Budget contact group that regional offices should be allocated their own shares for the upcoming budget period.

In connection with the previous discussion segment, a speaker raised criticism that NEPAD's approach was too "top-down". Another suggestion was put forward according to which UNEP's regional structure should be reconstituted in order to more closely resemble the political subgroupings of Member States and to better respond to their needs. Greater cooperation with the UN regional economic commissions could be exercised in this regard as well.

There was widespread agreement that the benefits of focusing on regionalisation would be the harmonisation of legislation, as well as improving the efficiency of work

being carried out, while avoiding duplication. An added benefit is that the solidarity of decision-makers in each respective region would be fostered and the formulation of mutually enforcing policies encouraged. It was also suggested that UNEP on the regional and national level should also provide support for legislative drafting and enhancing negotiating capacity, especially with respect to issues linked to environment and trade. A number of delegates stressed that one should avoid the creation of new institutions and rely on the existing machinery instead. In response to this it was pointed out that the PoI mandated the establishment of IPEC.

Promotion of Sustainable Production and Consumption Patterns

David Anderson, acting as Chair for this segment, referred to the discussion paper on *Promoting Sustainable Production and Consumption Patterns* (UNEP/GC.22/8/Add.2) and highlighted the relevant passages that referred to the WSSD PoI. Two keynote presentations were given by representatives of the developing and the developed world respectively.

Minister Xie Zhenua of the Chinese Environmental Protection Administration described national experiences in pushing forward economic growth while controlling environmental degradation by making use of pricing and taxation policies to guide the market, such as providing incentives to phase out backward and resource-wasting technologies, introducing more efficient and cleaner, as well as renewable sources of energy. Building on experiences from the developed countries, the government had



The Ministers

Courtesy: IISD

launched demonstration projects of recycling economy and introduced and encouraged enterprises to accredit themselves to the ISO 14000 process with products of environmental labelling. The Minister admitted that China is only at the starting point and that all efforts of encouraging sustainable production and consumption patterns should be based on the principle of sound economic development and social progress. He brought forward the suggestion that UNEP should work out a programme for all countries, particularly the developing countries, to improve their capacity for sustainable development based on the principles and targets identified in the PoI.

Norwegian Environment Minister Borge Brende pro-

Final Plenary Session

The Plenary was reconvened on Friday 7 February, and adopted the draft reports of the Plenary proceedings, the GMEF and the COW. Annexed to these were the draft decisions as approved by the COW, Drafting Group and various contact groups. The majority of draft decisions were adopted without significant changes, producing an unprecedented volume of decisions. Some of the more noteworthy decisions are described in the following paragraphs along with a brief background on the negotiations behind these. For the complete list of decisions, please refer to page 94.³

Early Warning, Assessment and Monitoring

Despite the Executive Director Klaus Töpfer's intervention in favour of the establishment of IPEC, in which he underlined that "the logic behind the proposal was incontestable, namely, that UNEP needed to act always on the basis of credible scientific knowledge" the relevant contact group made no further headway on this issue. Part I on *Strengthening the scientific base of UNEP* of the final decision on *Early warning, assessment and monitoring* (22/1) that was finalised by the COW, lists a catalogue of questions to be submitted to governments, IGOs, CSOs, and scientific institutions. One of these requests views on the possibility of the establishment of IPEC *vis-à-vis* the strengthening of existing institutions and mechanisms.

Returning to the item of the Occupied Palestinian Territories, the GC President personally intervened and presented a revised draft decision, which was adopted in the final Plenary segment. In Part V of decision 22/1, the Executive Director is requested to implement the recommendations of the desk study within the mandate of UNEP and, when requested by both parties (Israel and the Palestinian Authority), to act as an impartial moderator to assist in solving urgent environmental problems. Furthermore, the participation of the Palestinian Authority in relevant meetings and processes of MEAs is to be promoted.

Climate and Atmosphere

Another contact group had been created in order to finalise a draft decision on adaptation to climate change, which on one occasion worked until 5:30 in the morning. The US and several other States had objected that UNEP should not duplicate the work of the UN Framework Convention on Climate Change (UNFCCC), and to focus solely on adaptation. After the contact group had seemingly reached a compromise, the discussion on this issue was reopened in the COW. After including reference to the Kyoto and Marrakesh accords, the decision was finally ready for adoption by the Plenary. Part I of the final decision 22/3 on *Climate and atmosphere* mandates UNEP "to support regional and national actions and programmes including national adaptation programmes of action for least developed countries as well as programmes to reduce the vulnerability of developing countries to climate change", while paying special attention to SIDS. The less controversial second Part of the final decision on the *Intergovernmental Panel on Climate Change* requests the Ex-

ecutive Director to continue disseminating the findings of the Panel and urges governments to provide financial, technical and scientific support.

Chemicals

The contact group on chemicals chaired by Halldor Thorgeirsson (Iceland) also had long protracted negotiations, but produced decisions which many observers hailed as one of the most satisfying outcomes of the Governing Council as it complemented the WSSD's PoI and its target for the sound management of chemicals by the year 2020. All decisions have been grouped under the final decision on *Chemicals* (22/4).

The most contested item revolved around whether to establish a formal mercury programme or initiate work on a legally binding instrument. After several competing draft texts had been reviewed, the group agreed to use the phrase "action on mercury" instead of a "global assessment". Part V of Decision 22/4 thus contains as an annex the *UNEP Programme for International Action on Mercury* which sets out broad objectives and priority actions for UNEP to assist regional and national initiatives by facilitating and conducting technical assistance and capacity-building. In the operational part of the decision, governments are invited to submit their views on medium- and long-term actions on mercury. These will be compiled and synthesised by the Executive Director for presentation at the Governing Council's 23rd Session, with a view to developing either a legally binding instrument, a non-legally binding instrument, or some other measure or series of actions. In response to an objection raised by the US and other delegations, namely that concentrating solely on mercury at this stage could delay action on other heavy metals, the requirement has been added also to consider further action on other heavy metals, such as lead and cadmium.

Implementation of Montevideo Programme III

Part II of decision on *Governance and Law* (22/17) deals with Implementation of the *Programme for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-first Century (Montevideo Programme III)*. A number of delegations complained that Part II of the draft decision as submitted by the CPR, which despite the fact that it bears the full title of the Montevideo Programme III, contained no specific reference on how to follow up with the Programme itself. In a last-minute decision, Section D on *Implementation of the Montevideo Programme III* was added, which requests the Executive Director to submit a comprehensive report on the follow-up to the Programme at the next GC session.

Section A on *Follow-up to the Global Judges Symposium focusing on capacity building in the area of environmental law* represented a highly watered-down version of the original draft proposal. The final text does not state that the GC endorses the Johannesburg Principles, but only takes note of them. In fact, the words "with appreciation" in connection to "noting" have been deleted.

What appeared to be the most controversial item, namely section B on *Enhancing the application of Principle 10 of the Rio Declaration on Environment and Devel-*

opment went over surprisingly smoothly by contrast. In it, the Executive Director is requested to provide policy and advisory services in key areas of institution-building at the national and international levels in order "to promote law and practice relating to access to information on the environment, public participation in processes leading to decision-making and access to judicial and administrative procedures relating to environmental matters." Governments and relevant IGOs and CSOs are invited to participate actively in the above process and the Executive Director is requested to submit a report to the Governing Council at its next session.

Section C on *Status of international conventions and protocols in the field of the environment* contains a rather weak invitation to States that have not yet done so "to consider" signing, ratifying or acceding to conventions and protocols related to the environment. Some observers joked that the US delegation would have preferred the wording "to invite countries to consider desiring the possibility...".

International Environmental Governance

Part I of decision 22/17 addresses the question of following up General Assembly Resolution 57/251⁴ on the Cartagena recommendations on Governance, which recalls the decision made at the WSSD to fully implement the outcomes of the respective Governing Council decision.⁵ The COW supported an addition to the draft, suggested by a developed country, concerning a strategic plan for technology support and capacity building. Delegates also agreed to streamline the procedure for submitting comments to UNEP on the question of universal membership of the Governing Council/GMEF, so as to avoid duplication of the General Assembly process. The remaining details were hammered out in the Drafting Group.

Based on the GA Resolution, the final decision repeats the call to invite governments to submit written comments on the question of universal membership for the Governing Council/GMEF. The Executive Director, in turn, is requested to submit a report incorporating these comments to the 8th Special Session of the Governing Council, in 2004, for its consideration.

Role of Civil Society

The proposal to amend Rule 69 of the Governing Council's Rules of Procedure was handed over to the Drafting Group. The stumbling block, however, was agreeing on the accreditation procedures and criteria that were contained in the Executive Director's Strategy Paper on *Enhancing Civil Society Engagement in the Work of UNEP* (UNEP/GC.22/INF/13).⁶ A number of delegates pointed to the reform plans within the United Nations and urged that one should monitor their progress as pertaining to provisions for civil society participation.

Some even wondered why this point came up for debate in the first place, since in this and past GC Sessions CSO representatives were allowed to move freely within

the meeting. The final decision defers the issue to further consideration by CPR of amending Rule 69 and any other consequential amendments, "taking into account the evolving relationship between civil society and the United Nations system and the ongoing United Nations reform process."

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The final plenary session had to be suspended for several hours in order to wait until the two remaining contact groups had finished readying their draft decisions for final adoption. These were the contact groups on the budget and on the promotion of sustainable consumption and production patterns.

Budgetary and Administrative Matters

The budget contact group was chaired by John Ashe (Antigua and Barbuda) and had to wrestle with two recurring themes: (1) the issue of introducing an indicative scale of contributions (ISC); and (2) apportioning funds for the proposed Programme of Work along regional lines. The Deputy Executive Director had to personally remind delegates of what was decided at Cartagena, namely that the ISC had been recommended on a voluntary basis and that it is up to individual governments to decide to use this or another basis in determining their level of contribution. The final decision *Environment Fund budget: proposed*



The Chair, Ambassador Juergen Weerth and UNEP staff in the Drafting Committee

Courtesy: IISD

biennial programme and support budget for 2004-2005 (22/20), notes the launching of a pilot phase for a voluntary ISC. Following a proposal by several developed countries, the Executive Director, in preparation for the next biennial budget and programme, is requested to prepare a breakdown of the budget allocation for each of UNEP's Divisions that will be implemented at the regional level.

For the full text of decision 22/6 on *Promotion of sustainable consumption and production patterns*, see page 94.

The meeting was officially gavelled to a close at 8:45 on Friday evening, whereupon Klaus Töpfer commented that this was a "hard, but positive week".

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In decision 22/24 of the provisional agenda, date and place were agreed for the 8th Special Session of the Governing Council/GMEF in Seoul, from 29 to 31 March 2004 and the 23rd Session of the Governing Council/GMEF in Nairobi from 21 to 25 February 2005. The provisional

agenda for the next session expressly notes two items of special interest in connection to further realisation of the WSSD PoI and the future role of UNEP in the UN system:

- UNEP's contribution to CSD; and
- implementation of IEG recommendations.

The lofty agenda of this year's session is in no small part due to the many commitments in the PoI. As with the Plan itself, numerous observers criticised that the final decisions made scarce reference to concrete time frames or programmes. Repeated calls for ten-year framework programmes in line with the PoI were impossible to realise. By contrast, the decision on chemicals was rated as an instance of a successful step toward concretising how to realise one of the Johannesburg commitments. The decision on *Promotion of sustainable consumption and production patterns* is also a positive example. Many look for the forthcoming session of the CSD to further clarify the role UNEP is to play in realising the PoI and interact with other bodies of the UN system in streamlining the application of the sustainable development concept.

There was not much headway in regard to IEG, since much depends on the General Assembly which will decide on the implementation of the Cartagena recommendations, including the controversial question of universal membership. However, a number of decisions were targeted at strengthening the mandate of UNEP in an indirect manner, namely those connected to assessment and early warning activities. Its expertise in the areas of chemicals management and water programmes was also acknowledged and re-emphasised in the relevant decisions.

Its catalytic role as a clearing-house for scientific information thus has been underlined.

The GMEF once more drew a few unfavourable reviews for being just another round of general debate. Some felt that many Ministers arrived inadequately prepared and thus broached the issues only on the surface. A number of critics suggested that the format of these discussions has to be rethought, and more importantly, to devise a means by which the results could flow more effectively into UNEP's decision-making process, including the negotiation of GC decisions. On the positive side, it can be noted as an accomplishment that once more the number of Ministers who participated in this event had increased. The EU in its closing remarks expressed the hope that as the GMEF becomes more established it has the potential of turning into a multilateral mechanism for guiding international environmental policy. (MAB)

Notes

¹ See *Environmental Policy and Law*, 32 (5), p. 190.

² The corresponding UNEP background document is *Implementing the outcomes of the WSSD: International Environmental Governance* (UNEP/GC.22/4).

³ The complete set of decisions, as well as background and information documents are available for download at www.unep.org/GoverningBodies/GC22/.

⁴ See *Environmental Policy and Law*, 33 (1), p. 49.

⁵ Report of the Seventh Special Session of the UNEP Governing Council/GMEF Open-ended Intergovernmental Group of Ministers or Their Representatives on International Environmental Governance. See *Environmental Policy and Law*, 32 (2), p. 64.

⁶ The original draft decision as submitted by the Committee of Permanent Representatives foresaw amending the rule to allow civil society organisations, after due accreditation, to designate representatives to sit as observers at public meetings of the Governing Council and its subsidiary meetings and following certain provisions to make oral statements or have written statements circulated by the Secretariat.

