UNITED NATIONS ACTIVITIES

UN

Implementing Agenda 21: Overview of Progress

Introduction

The United Nations Commission on Sustainable Development (CSD) met at the UN Headquarters in New York for its sixteenth session from 5–16 May 2008. (See page 188.)

One of the documents submitted to the Governments for their consideration (under the thematic cluster for the implementation cycle 2008–2009 – review session, item 3 of the provisional agenda), was the *Report of the Secretary-General on the "Overview of Progress towards Sustainable Development: A Review of the Implementation of Agenda 21, the Programme of Action for the Further Implementation of Agenda 21 and the Johannesburg Plan of Action"* (E/CN. 17/2008/2). This gives a brief review of the situation and presents a very mixed picture of progress so far. While the report states that recent years have seen widespread economic growth and poverty reduction, it notes that progress in slowing natural resource degradation has been uneven, and that there are few signs of recovery of depleted fisheries.

However, as the Report was prepared for publication at the end of 2007 and was distributed to Governments in early 2008, for their consideration at CSD-16, for some aspects of the Millennium Development Goals (MDGs) the data does not reflect the situation in June 2008. For some aspects the data records the situation at the end of 2006, while for others, it estimates the situation at the end of 2007. Furthermore, at the time the Report was compiled, few could have foreseen the massive impact on food, commodity and energy supply, resulting from the turmoil on the financial markets. Hence, the Report has to be read against this new background of increasing global food and fuel crises and the even greater urgency for action than at the time the document achieved consensus. For the first time since the oil embargo of 1973, the world is suffering from the confluence of record oil and food prices and the developing countries are in danger of buckling under the strain. Indeed, western countries have upgraded the food and fuel crisis into a national security concern, due to fears that high energy and agricultural commodity costs are destabilizing key developing regions of the world.

At the recent High-level Conference on World Food Security: the Challenges of Climate Change,[1] held at the Rome Headquarters of the UN Food and Agriculture Organisation (FAO) from 3–5 June, Ministers agreed that the food crisis threatened progress achieved so far toward achieving the MDGs. Ban Ki-moon, UN Secretary-General, noted that although the food crisis could undo work done toward building democracies, it also presented a historic opportunity to revisit past policies and revitalize agricultural practices. He outlined some of the recommendations formulated by the UN High-level Task Force on the Global Food Security Crisis, urged participants to act in partnership and called for a greater level of international consensus on biofuels.

FAO Director General Jacques Diouf said that the June Meeting had become a "*de facto* summit" in light of the food crisis. He expressed frustration that adequate funding had not been provided for programmes that would have assured world food security and called for innovative solutions, urging delegates at the Conference to engage in non-partisan discussion. Participants agreed that causes for the food crisis are multiple and include increasing fuel and transportation costs; rising prices for oil and agricultural products; competition for agricultural land between fuels and food production; and the impact of climate change. Several speakers noted the effect the present crisis would have with regard to achieving the Millennium Development Goals.

This Conference was preceded by the ECOSOC Special Meeting on the Global Food Crisis from 20–22 May, 2008, at which participants agreed on short-term priorities, including immediate actions by donors and governments to allow farmers to meet production demands. They also identified medium- and long-term measures to deal with the food crisis, including a re-examination of the amount of official development aid (ODA) dedicated to agriculture.

However, even after so much time having been spent on discussing possible solutions to the widening food and energy crises, short- or mid-term prospects are bleak for even a modest improvement in the situation and adequate progress toward sustainable development.

The Secretary-General's Report

The Report does not consider certain topics already covered in separate reports submitted to the CSD at its sixteenth session, which include agriculture, rural development, land, drought, desertification and water and sanitation. However, even though it is the subject of a separate report, Africa is considered alongside other regions in the Overview Report.

The focus of this Overview Report is on recent developments, new data, and progress in understanding what works. These are dealt with under six main headings:

1) Poverty eradication and access to basic services;
2) Energy for sustainable development;

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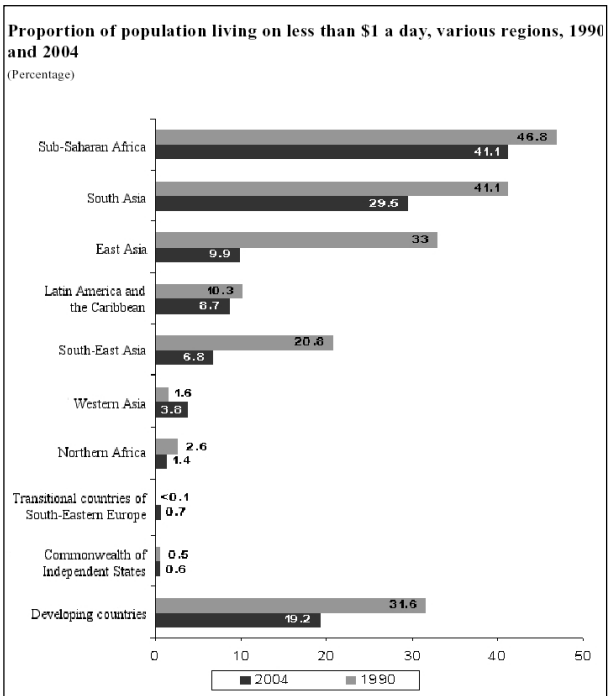
3) Protecting and managing the natural resource base;
4) Sustainable consumption and production;
5) Means of implementation;
6) Continuing challenges.

Summary of the Report's Findings and Recommendations

Poverty Eradication and Access to Basic Services

A. Poverty Eradication

Despite progress in some countries, the eradication of poverty and hunger remains a major challenge, especially in sub-saharan Africa. In developing countries, the proportion of people living in extreme poverty fell from 32 to 19 per cent between 1990 and 2004. If this trend can be sustained, the Millennium Development Goal poverty reduction target for 2015 will be met for the developing world as a whole and for most regions. Sub-Saharan Africa, however, is not on track to reach the goal. (See below)



Source: *The Millennium Development Goals Report, 2007* (United Nations publication, Sales No. E.07.I.15).

More than 70 per cent of the world's poor live in rural areas, and the rural poverty rate is more than double the urban rate – 30 versus 13 per cent according to a recent World Bank Report.As most of the rural poor are small-scale farmers, herders, fishers and agricultural labourers, improvements in agricultural productivity, particularly for small farmers, are critical to reducing poverty.

The report stresses that reducing poverty depends not only on enabling poor people to escape from poverty, but also on enabling the vulnerable non-poor to stay out of poverty. So far, most anti-poverty programmes have focused on helping poor people out of poverty, with much less attention to the vulnerability of other households.

B. Hunger

In the period 2002–2004, there were 860 million undernourished people worldwide. However, the report points out that although this is 130 million fewer than in 1969–1971, almost all of the decline had occurred before 1990–1992, largely as a result of the green revolution in Asia. Since 1992, the number of undernourished people has not changed much, while the proportion of undernourished people in developing countries declined from 20 per cent in 1990–1992 to 17 per cent in 2002–2004.

Efforts to reduce hunger in sub-Saharan Africa have been hampered by natural and human-induced disasters, including conflicts and the spread of HIV/AIDS. Most of the increases in the number of undernourished people have been in five war-torn countries: Burundi, the Democratic Republic of the Congo, Eritrea, Liberia and Sierra Leone.

It is estimated that malnutrition contributes to over half of the 10 million deaths per year among children under age five. Among the malnourished children who survive, many suffer frequent illness and impaired learning capacity.

C. Health

The Millennium Development Goals (MDGs) call for a two-thirds reduction in child mortality by 2015. Most under-five deaths are due to infectious diseases and neonatal causes, with an estimated four million infants each year dying during the first month of life. In sub-Saharan Africa, child mortality is especially high, represented by a figure of generally over 100 deaths per 1,000 live births.

Malaria remains a major scourge, with about 66 per cent of malaria cases and 80 percent of malaria deaths occurring in sub-Saharan Africa. Since 2000, major efforts have been made to strengthen programmes established to prevent malaria and provide treatment.

HIV/AIDS also continues to inflict a heavy toll on health and development. At the end of 2007, over 33 million people worldwide were estimated to be living with HIV, up from 30 million in 2002, about 68 per cent of them in sub-Saharan Africa. In some of the worst-affected countries in sub-Saharan Africa, over half of all deaths among children under age five are now HIV-related, but there has been some progress: the number of people newly infected declined to 2.5 million in 2007 from three million in 2003, while the number dying from AIDS declined to 2.1 million in 2007 from a peak of 2.2 million in 2005.

D. Education

The MDGs call for universal primary school enrolment by 2015. Recent data, however, show that 26 per cent of primary school-age children are still out of school. Family income and mothers' educational level are among the major determinants of children's staying in school.

Energy for Sustainable Development

Although some progress has been achieved in this area, emerging challenges include higher energy prices and climate change. Accessibility and affordability of modern energy services remain important issues in most developing regions. ➳

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Some countries have initiated *energy assessment* programmes through which to examine their energy sectors in a comprehensive manner and within a sustainable development framework.

There are an increasing number of initiatives worldwide designed to improve *energy efficiency*. A global Energy Efficiency Building Retrofit Programme, a project of the Clinton Climate Initiative, was announced in 2007, bringing together four of the world's largest energy service companies, five of the world's largest banks and 16 of the world's largest cities, in an effort to reduce energy consumption in existing buildings.

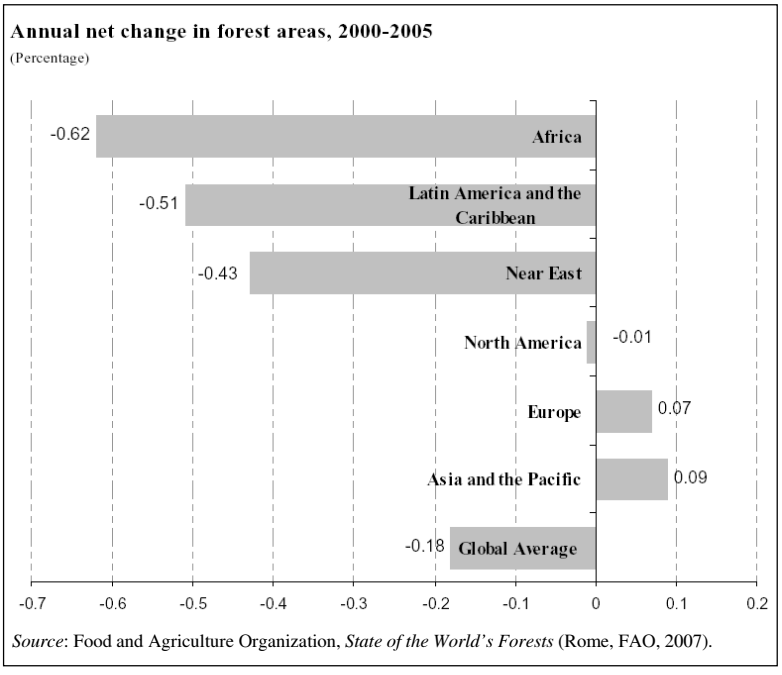
With regard to *renewable and advanced energy technologies*, some progress has been made towards the Johannesburg Plan of Implementation (JPI) goal of substantially increasing the global share of energy obtained from renewable sources. Although the overall world share of these technologies remains low, in recent years there has been a substantial increase in the use of renewable energy in all regions, with particularly fast growth in Europe.

Another major goal of the JPI is improving *access to reliable and affordable energy services*. Electrification programmes have been implemented in a number of developing countries, including Botswana, Brazil, China, Ecuador, Ethiopia and Uganda. Nevertheless, some 1.6 billion people, mostly in rural areas, still lack access to electricity.

Protecting and Managing the Natural Resource Base

Biodiversity and Conservation of Biological Resources

Biodiversity and habitat loss, particularly through forest degradation, is continuing at a high rate. From 1990 to 2005, the world lost three per cent of its total forest area. Since 2000, the rate of loss has declined slightly, but with net forest loss still amounting to 7.3 million hectares per year.



Source: Food and Agriculture Organization, *State of the World's Forests* (Rome, FAO, 2007).

Deforestation and land-use change accounted for 18 per cent of global greenhouse gas emissions in 2004. Despite the importance of forest protection for reducing climate change, the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC) does not recognise "reducing emissions from deforestation and forest degradation" (REDD) projects under the Clean Development Mechanism (CDM). However, the Bali Action Plan calls for examination of "policy approaches and positive incentives on issues relating to reducing emissions from deforestation and forest degradation in developing countries."

Mountain forests account for 26 per cent of global forest area and are characterized by high biodiversity. However, considerable deforestation and forest degradation are taking place in these areas as a result of overgrazing, fire and conversion into plantations and cropland.

The Mountain Partnership, launched at the 2002 World Summit on Sustainable Development (WSSD) to protect mountain ecosystems, has expanded to include 130 members, including Governments, international organisations, civil society groups and private sector institutions.

Oceans and Marine Resources

The world's wild fish harvest has levelled off since 1989 after a long period of growth. The steadily growing demand for fish has been met largely by fish farming, whose share of total fish production increased from 27 per cent in 2000 to 34 per cent in 2005.

While there have been efforts in some countries to reduce fishing capacity or activity in order to allow ocean-harvest fisheries to recover, the report notes that there does not appear to be any overall reduction in capacity or indication of recovery of depleted fisheries. Furthermore, with increases in regulation to make fisheries sustainable, there also appears to be an increase in illegal, unregulated and unreported (IUU) fishing.

There is also growing concern over the acidification of ocean water due to higher atmospheric concentrations of CO_2; and the impact of acidification is not well understood and requires more research.

Natural Disaster Risk Reduction and Mitigation

Among recent efforts to mitigate the impact of natural disasters has been the development of innovative schemes for developing countries. In pilot programmes in Africa, Asia and Latin America, which are now being scaled up, small farmers have been offered drought or other weather insurance, with payout based on rainfall and temperature patterns, eliminating the cost of loss assessment for individual farms as in conventional crop insurance. The programmes have been most effective and attractive to small farmers when associated with agricultural credit and technical support.

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Sustainable Consumption and Production

The Marrakech Process

Since the Second International Expert Meeting on Sustainable Consumption under the Marrakech Process (2005), progress has been made on Sustainable Consumption and Production (SCP). Seven task forces are developing and implementing SCP projects and activities in the areas of sustainable products, sustainable public procurement, sustainable tourism, sustainable buildings and construction, sustainable lifestyles, education for sustainable consumption, and cooperation with Africa. National SCP programmes and action plans have been launched in a number of countries. Cooperation mechanisms are now in place to engage major groups and the donor community in the Marrakech Process, and a communication strategy is being developed to raise public awareness of SCP.

An outline of a 10-year framework was tabled at the Third International Expert Meeting on SCP held in Stockholm in June 2007 and will be elaborated in consultation with Governments and major groups in preparation for deliberation at the eighteenth and nineteenth sessions of the Commission on Sustainable Development in 2010–2011.

Industrial Development

Between 1995 and 2006, developing economies increased their share of world industrial production from less than 20 to more than 26 per cent. South and East Asia accounted for 19 per cent of world industrial production in 2006, up from 12 per cent in 1995, while the output share of sub-Saharan Africa, for most of which South Africa was responsible, remained less than 1 per cent.

In sub-Saharan Africa, manufacturing as a share of gross domestic product (GDP) decreased from over 12 per cent in 1999 to 10 per cent in 2004. The share of manufacturing in exports has also declined slightly in recent years as high commodity prices have contributed to a natural resource export boom.

Chemicals

The Strategic Approach to International Chemicals Management (SAICM), including the Dubai Declaration, the Overarching Policy Strategy and the Global Plan of Action, was adopted as part of the efforts to address the problems of air and water pollution and hazardous waste due to poorly managed industrialization. The goal is to promote the sound management of chemicals and hazardous wastes throughout their life cycles in all countries.

Human Settlements and Transportation

In 2008, the majority of the world's population will live in towns and cities; and almost all of the growth in world population in the coming decades is expected to be in the cities of the developing world. The report notes that this represents both a challenge and an opportunity. It is a challenge in that providing additional billions of people with adequate housing, water and sanitation, employment and other needs will require vast investment, skilled management and strong leadership. In addition, the concentration of people in cities increases the risks of disease, pollution and disaster. On the other hand, the concentration of people will also facilitate the provision of education, health care, transportation and other social services, as well as productive employment.

Transportation Fuels and Technologies

For diesel engines, an alternative to petroleum-based fuel is biodiesel, usually produced from vegetable oil. Biodiesel production had grown from less than 1 billion litres in 2000 to 6 billion litres in 2006. In 2007, Indonesia and Malaysia announced that diesel fuel sold in those countries would contain 5 per cent biodiesel, and mentioned plans to increase the proportion later to 20 per cent. In March 2007, the European Union (EU) committed to raising the share of biofuels in transport fuels from about 2 to 10 per cent by 2020.

However, concerns have been raised that cultivation of biodiesel crops could compete with other uses of agricultural land, reducing food production and increasing food prices, as well as the possible release of CO_2 and nitrous oxide (N_2O) – another greenhouse gas – through deforestation and peat bog degradation.

Sustainable Construction and Building Management

Total energy and the share of energy consumed in buildings, including heating, lighting and appliances, have continued to increase in most countries as the size of houses and the number and size of appliances continue to rise. The resulting increase in household energy consumption has been only partially offset by substantial improvements in energy efficiency.

Waste Management and Recycling

In developed countries, municipal waste generation has continued to grow steadily to an average of about 540 kilograms per person per year, ranging from 354 kg per person in Norway to about 800 kg per person in the United States. Most of the solid waste in developed countries goes to landfills, but incineration with energy recovery is increasing and is now the dominant means of disposal in a number of EU countries and Japan.

In developing countries, rates of recycling, including both household and industrial recycling, have increased rapidly and now average over 80 per cent for metals, 40–55 per cent for paper and cardboard, and 35–40 per cent for glass.

The growth of recycling has been accompanied by an increase in international trade in recycled material, particularly from developed countries to China and other rapidly industrializing Asian countries. This trade has been estimated at 135 million tons annually, including 78 million tons of iron and steel scrap, 35 million tons of paper and cardboard, 15 million tons of aluminium and other nonferrous metals, and 4 million tons of plastics.

Tourism

The number of tourists is growing at a rate of about five per cent per year and international tourism receipts account for over 5 per cent of world export income. While Europe and North America continue to be the main

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tourist destinations, the share of developing countries has been increasing, from 8 per cent of tourist arrivals in the mid-1970s, and 25 per cent in 1990, to 35 per cent in 2006.

In some countries, tourist destinations in ecosystems at risk from excessive tourism are using tourist fees to help protect ecosystems as well as to undertake community development. A variety of eco-labels and certification schemes have been developed for tourist sites and hotels. However, there are more than 100 competing tourism certification schemes worldwide, with no internationally agreed standards.

Means of Implementation

Countries continue to make progress in the formulation and elaboration of national stategies for sustainable development, as called for in the Johannesburg Plan of Implementation. Eighty-two countries have reported to the Commission on Sustainable Development or the Department of Economic and Social Affairs (DESA) that they are currently implementing a national strategy for sustainable development, which constitutes an increase of 19 per cent compared to 2006.

An analysis of 46 national strategies conducted by DESA in 2007, revealed that most developed as well as developing countries address climate change mitigation and, less often, adaptation in their national strategies for sustainable development.

Trade

The world economy and international trade grew vigourously in 2006. World merchandise exports increased by 15 per cent, while commercial services exports were up about 11 per cent. Overall, the share of developing countries in global trade rose from 29 per cent in 1996 to 37 per cent in 2006. The share for the least developed countries of world merchandise exports (0.9 per cent) was the highest since 1980.

The Doha Development Round of international trade negotiations resumed in September 2007, but no significant progress has been made and the near-term prospect for agreement seems limited.

The report notes that the proliferation of bilateral and regional trade agreements has put the integrity of the multilateral trading system at risk. As of July 2007, 205 regional trade agreements were in force, compared with 65 in 2000.

Regional trade agreements differ considerably in scope, varying from exchange of preferences on a limited range of products between two or more countries to provisions extending beyond traditional tariff reduction or elimination. Among developing countries, regional trade agreements are for the most part limited-scope agreements, while regional trade agreements among developed countries tend to be more far-reaching, including decreasing tariff levels for most non-agricultural goods.

South-South merchandise trade has expanded considerably in the past few years, albeit from a very small base. Tariff barriers affecting South-South trade are still much higher than those affecting other trade.

In addition to tariff barriers, non-tariff measures are increasingly applied, especially as technical measures in North-South trade and there is concern that countries may abuse non-tariff measures as protectionist measures.

Finance

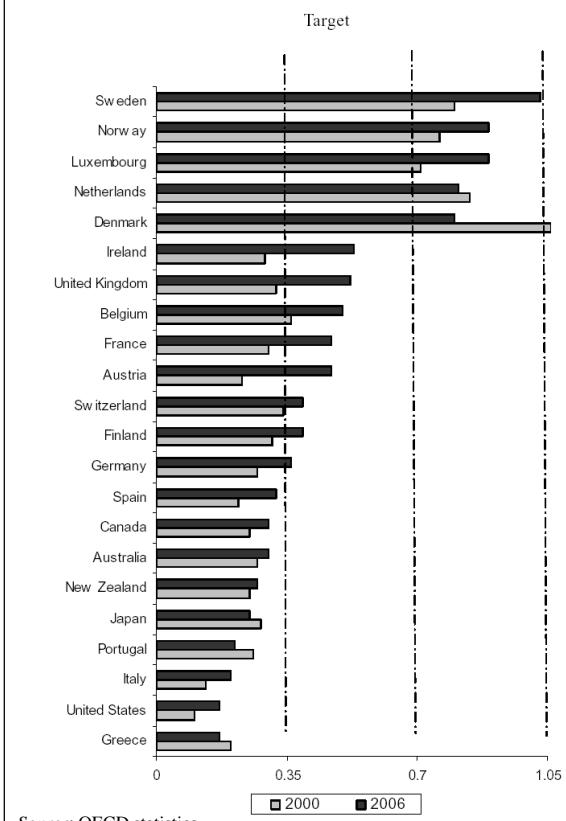
By treating aid as one of several financial flows and calling for the private sector to become more involved in development, the Monterrey Consensus of the International Conference on Financing for Development (2002) and the Johannesburg Plan of Implementation reflected a shift in international development finance discourse. Important new actors, including private organisations, foundations and non-governmental organisations, have joined bilateral and multilateral donors in financing development.

Overseas development assistance (ODA) doubled from $50 billion in 1998 to $104 billion in 2006 and has increased as a proportion of gross national income in most donor countries.

At the same time, it has fallen as a proportion of total developing-country capital inflows. While ODA had constituted about 16 per cent of total net capital inflows to developing countries in 1998, it now accounts for less than 11 per cent.

The significant increase in ODA in 2005 was due mainly to debt relief and emergency assistance. These elements, however, declined in 2006, causing development aid from

Official development assistance as a percentage of gross national income in Development Assistance Committee countries, 2000 and 2006



Source: OECD statistics.

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Organisation for Economic Cooperation and Development (OECD) member countries to fall by 2.7 per cent.

ODA for sub-Saharan Africa has increased substantially in recent years, with net ODA having risen from $11.2 billion in 1998 to $24.7 billion in 2005. However, much of the increase has come in the form of debt relief. The Report notes that to meet the pledge to increase ODA to sub-Saharan Africa to $50 billion by 2010, donors would have to increase the flow of aid to the region by 15 per cent annually until then.

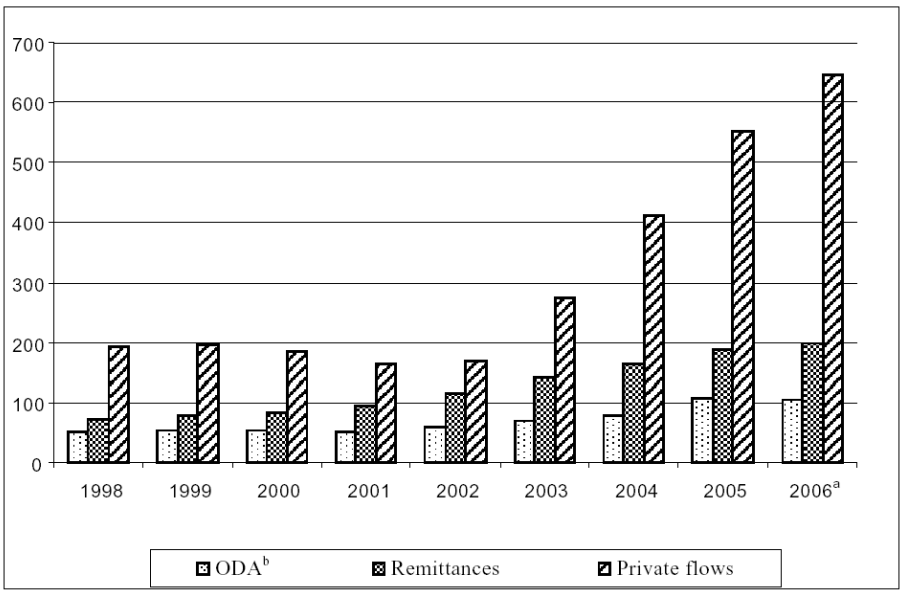
Given the potential for export production to reduce poverty and promote development, assistance to developing countries aimed at helping them take advantage of existing export opportunities is becoming an increasingly important component of both development assistance and trade policy.

Foreign direct investment (FDI) to developing countries and countries with economies in transition reached a record level in 2006, up from $44 billion in 2005, with virtually all of the gains coming in Eastern Europe and Central Asia, which for the first time surpassed East Asia as a destination for FDI. South Asia and sub-Saharan Africa are lagging behind as those regions received only 4 per cent and 3.8 per cent respectively, of total 2006 developing-country net FDI flows.

FDI continues to be concentrated in a few of the largest middle-income countries, although the degree of concentration has declined somewhat over the past few years. FDI to China declined slightly in 2006, but still amounted to almost one quarter of FDI inflows to developing countries, down from almost one third in 2002.

Net capital flows to developing countries, 1998-2006

(Billions of dollars)



Sources: World Bank, *Global Development Finance, 2007: The Globalization of Corporate Finance in Developing Countries* (Washington, D.C., World Bank, 2007); and Organization for Economic Cooperation and Development/ Development Assistance Committee database.

a Estimates.

b Total ODA flows.

Continuing Challenges

- While poverty rates have been substantially reduced in East and South-East Asia, in sub-Saharan Africa progress has been slow and poverty rates remain high in the face of slow agricultural production growth, civil conflict, HIV/AIDS, malaria and other diseases.
- Energy for sustainable development also remains a major challenge. Urgent efforts are needed to expand access to reliable, affordable, economically viable, socially acceptable and environmentally sound energy services, while reducing global greenhouse gas emissions.
- High prices for raw materials and energy are increasing the importance of eco-efficiency, waste reduction and recycling. One key challenge is to devise regulations and incentives that encourage industry to design products so as to minimize environmental impacts and waste over the whole life cycle, including disposal. Another growing challenge is to ensure safe disposal and recycling of electronic waste and other hazardous waste in developing countries.
- Deforestation, forest degradation and loss of biodiversity, particularly in tropical forests, remain a key challenge. As deforestation is an important contributor to climate change, financing is beginning to become available to slow rates of deforestation and associated greenhouse gas emissions. Still, challenges remain in providing incentives for conserving tropical forests. International cooperative efforts are also critical to ensuring sustainable fisheries, including restoring depleted stocks, protecting stocks and ecosystems at risk, and developing sustainable methods of aquaculture.
- Improving access of developing countries, particularly countries in sub-Saharan Africa and other least developed countries, to international markets and development finance is essential for sustainable development and poverty reduction. A key challenge for both donor and recipient countries is to ensure that development assistance, including bilateral and multilateral ODA, commercial investment, and foundation funding, is used effectively where it is most needed, in accordance with the development priorities of recipient countries. (MJ)

Note

[1] See http:// www.iisd.ca/ymb/wfs/, for a report of the Conference.

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DOALOS

Marine Biological Diversity Beyond Areas of National Jurisdiction

by Arianna Broggiato*

The 2nd meeting of the *ad hoc* open-ended informal working group to study issues related to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction (WG) met[1] at the United Nations headquarters in New York, from 28 April to 2 May 2008.[2]

Legal Framework

According to customary international law, every State, within its jurisdiction, has the sovereign right to exploit its own resources and the responsibility to take adequate steps to control and regulate sources of serious global environmental pollution or transboundary harm within the territory subject to its jurisdiction.[3] On the other hand, the doctrine is not uniform in recognizing that a State has the same responsibility in relation to areas beyond national jurisdiction, such as the high seas. Therefore, the issue at stake – conservation of marine biodiversity beyond national jurisdiction – is quite controversial since it deals with the high seas, regulated by the customary legal regime of the freedom of the high seas, illustrated by the United Nations Law of the Sea Convention (hereafter LOSC). The area of the high seas comprises "all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State",[4] and is regulated by the freedom for all States, both coastal and land-locked, of navigation, overflight, laying submarine cables and pipelines, fishing and research.[5] This freedom is not unlimited and shall be exercised with due regard for the interests of other States, for the rights enjoyed under the Convention with respect to the activities in the Area,[6] and for the conservation of the living resources.[7] Moreover, the high seas shall be reserved for peaceful purposes,[8] and no State may claim to have sovereignty over any part of the high sea.[9]

Another important legal regime that is relevant for marine biodiversity beyond national jurisdiction is the Convention on Biological Diversity (CBD), whose scope of application comprises, besides obviously all the territories subject to the jurisdiction of the States parties, "processes and activities, regardless of where their effects occur, carried out under its jurisdiction or control, within the area of its national jurisdiction or beyond the limits of national jurisdiction."[10]

Besides, some Regional Fisheries Management Organizations (RFMOs) responsible for the management of fish stocks are also relevant and may have competences in areas beyond national jurisdiction. Notwithstanding the legal effects that the CBD and the RFMOs can have in marine areas outside national jurisdiction, it should be noted that they are binding only on States parties to those legal regimes.

With the improvement of technologies and the new discoveries related to life in the deep sea-bed, and the consequent emergence of new activities[11] in areas further and further from the coasts, often outside national jurisdiction, greater attention started to be focused on the impacts that these anthropogenic activities have on the marine environment of the high seas. Therefore a process of consultation started, within the framework of the United Nations, in order to find out possible solutions for the management of marine biodiversity beyond national jurisdiction. In this regard, two of the main concerns faced by the international community are the identification of the applicable law to the subject matter and the determination of any eventual legal vacuum. This is the context whereby the WG came into existence.

Background: Outcomes of the First Meeting of the Working Group

The WG was established in 2004 by the General Assembly[12] to study all the activities already undertaken at the international level in relation to the conservation and sustainable use of marine biodiversity; their scientific, socio-economic and environmental implications; and the relevant studies that had been developed in order to indicate possible options for future cooperation.[13] It met for the first time in February 2006.[14] The main findings of that meeting were:[15]

- the insufficient knowledge about marine biodiversity beyond national jurisdiction and the need for further studies (also on the interaction between the oceans and climate change),
- the need for comprehensive studies on the existing legal framework to identify common principles for the conservation of biodiversity beyond national jurisdiction, including marine genetic resources,
- the identification of illegal, unreported and unregulated fishing and destructive fishing practices as the greatest threats,
- the call for improvement in implementing relevant existing international instruments,
- the need to apply an integrated and holistic approach

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to the management of marine biodiversity especially in the framework of regional fisheries management organizations, and with the adoption of area-based management tools,
- a clear-cut division between States supporting the principle of the common heritage of mankind for genetic resources and that of applying the freedom of the legal regime of the high seas to these resources,
- the proposal of the European Union of a new implementing agreement to the LOSC for the whole governance of marine biodiversity beyond national jurisdiction.

The General Assembly requested a second meeting to be convened in 2008 to go on with the discussion.

The Second Meeting of the Working Group

a) Opening of the work

The second meeting of the WG was introduced by the two co-chairpersons: Ambassador Robert Hill of Australia and Ambassador Juan Manuel Gomez Robledo of Mexico. They recalled that the United Nations Convention on the Law of the Sea is the legal framework for all the activities carried out in the oceans, including in areas beyond national jurisdiction (ABNJ), and that the General Assembly has the official role of discussing the subject matter. They stressed the importance of international cooperation, in an integrated framework, and the need for the necessary political will to make concrete proposals to conserve marine biodiversity and to realize the goal to halt biodiversity loss by 2010. They made clear from the beginning the intention and wish to find a way to move beyond what was done in 2006 during the first meeting of the WG.

b) Scientific presentations

Before the beginning of the discussion among the States, attention was focused on some scientific presentations[16] that gave examples of the richness in biodiversity of seamount ecosystems, stressing that the marine environment is much richer in biodiversity than land ecosystems, that recovery time, when possible, is estimated in centuries or millennia and that deep sea areas are still not properly studied. The scientists made useful recommendations for policy makers:
- identify vulnerable areas, raise research data and measure impacts on the areas,
- link research community to RFMOs institutions,
- improve the connection between policy demand and research,
- improve international cooperation.

c) General remarks

According to what was requested by the General Assembly,[17] when convening the WG, the discussion was organized around the following items: the environmental impacts of anthropogenic activities on marine biological diversity beyond areas of national jurisdiction – coordination and cooperation among States as well as relevant intergovernmental organizations and bodies – the role of

Bottlenose dolphin, *Tursiops truncatus* Courtesy: F. Graner / GSM

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area-based management tools – genetic resources beyond areas of national jurisdiction – whether there is a governance or regulatory gap, and if so, how it should be addressed. During the first day of the meeting all the delegations expressed their general positions on the management of marine biodiversity beyond national jurisdiction, under the discussion on general remarks. Since the beginning, a clear-cut division was evident between the States willing to engage in concrete discussion to find practical solutions for the conservation and sustainable use and development of marine biodiversity beyond national jurisdiction, and those that are more cautious and not disposed to make a dent in the freedom of the high seas.

d) Common positions

Duing the five days some positions shared by all the delegations emerged in discussion, and this can be considered a positive point from which to start strengthening cooperation. First of all, no delegation questioned the competence of the WG, unlike what happened during the first meeting in 2006;[18] even though one delegation[19] underlined that the WG is not intended to be a negotiation table, but just a table of discussion, and exhorted States not to engage in any negotiation but rather to go back home with proposals to be discussed by Governments. Moreover, the important role played by the oceans in sustaining life on the planet and in providing goods and services to humanity was unanimously recognized and the consequent need to protect the marine environment was felt to be a priority by all the delegations. The main threats to the marine environment identified during the discussion were: over fishing, illegal, unregulated and unreported fishing (IUU fishing), destructive fishing practices, climate change impacts and the impacts of the new and emerging activities that are unregulated, such as bioprospecting.[20]

Climate change has been recognized as an issue of security for those islands States at risk of being destroyed by natural catastrophes, and marine biodiversity has been recognized as a matter of food security by FAO and those States whose economy depends mostly on fishing. Speaking of climate change, some delegations expressed concerns over mitigation techniques that use the oceans as an instrument, such as carbon sequestration and storage into the sub-sea and ocean fertilization.

Other important common points were: the unanimous recognition of the LOSC as the legal framework for all the activities carried out in the oceans, including in areas beyond national jurisdiction; the identification of the General Assembly as the proper forum in which to discuss and eventually take decisions on the subject matter, as well as the acknowledgement of the importance of the role of the CBD. Moreover, most of the delegations expressed satisfaction with the cooperation activities undertaken within RFMOs regimes, and exhorted State parties to expand the competences of these organizations beyond national jurisdiction and beyond fisheries matters and sectoral protection of single species, in order to combine biodiversity management and environmental protection in the high seas; some delegations however were more cautious and underlined that RFMOs do not represent the international community and are only binding on State parties. Unanimous appreciation was expressed towards many efforts undertaken at the global level: to adopt measures against unsustainable and destructive fishing practices,[21] to start consultation for the drafting of a port state control agreement to combat IUU fishing,[22] to develop scientific criteria for the identification of ecologically and biologically significant marine areas in need of protection[23] and to adopt a voluntary code of conduct for scientific research.[24] However, the common feeling was that further efforts are needed, and implementation was considered to be the biggest shortfall. For some delegations[25] this was the only gap: they expressed the opinion that promoting a sustainable use of marine biodiversity beyond national jurisdiction is just a matter of implementing existing international instruments. Besides the acknowledgement of the importance of the precautionary principle, especially in relation to marine genetic resources research, and the ecosystem approach, especially in relation to the adoption of area based management tools (ABMTs), another important issue that was widely recognized was the need to take into consideration access to a fair and equitable solution (with implications for capacity building and transfer of technologies to developing countries) for the management of the exploration and exploitation of marine genetic resources beyond national jurisdiction: none of the delegations, apart from the United States,[26] explicitly questioned the need to grant access and benefit sharing.

e) Controversial issues: MPAs, MGRs and the regulatory gap

The most controversial issues discussed by the WG were: the establishment of marine protected areas (MPAs), the exploration and exploitation of genetic resources in ABNJ, the existence of regulatory gaps and the consequent need to establish a new legislative and institutional arrangement for the management of marine biodiversity beyond national jurisdiction.

Considering the goal to establish a representative network of marine protected areas in areas beyond national jurisdiction by 2012, consistent with the Plan of Implementation of the World Summit for Sustainable Development, a wide coalition of delegations[27] supported the need to engage in concrete actions towards implementing this commitment, avoiding the establishment of so-called "paper parks", where the only protection measure is the name. However, some issues to be further discussed were identified as follows: what are the criteria to decide when an area needs to be protected, who applies the criteria, how to manage the area and who is intended to enforce protection measures. Some States[28] called for the General Assembly to play a role in this, benefiting from the progress in determining scientific criteria to identify an area in need for protection made in the framework of the CBD.[29] The establishment of MPAs in ABNJ was controversial because some delegations expressed the opinion that, since they are supposed to be established in the high seas, these measures need to be taken with the agreement of all the States

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and in accordance with customary international law, and one delegation[30] strongly questioned the proposal, defining it as unrealistic.

Considering MGRs, the debate was quite intense and most of the delegations were intervening twice in the roundtable discussion. The only common point was the need to improve knowledge of the exploitation activities already undertaken, their costs and their impacts on the environment. The main issues addressed in the discussion focused on the legal status of MGRs and the need to have a new legal regime for them. Concerning their legal status the debate concentrated on the division between States[31] that consider MGRs to be the common heritage of mankind,[32] therefore being assimilated to the mineral resources of the Area and regulated by part XI of the LOSC; and the ones[33] that rejected this perspective and are against the broader definition of "resources" that includes living resources. For some delegations[34] the symbiotic relationship between the seabed and biodiversity, and between living organisms and mineral resources, renders unproductive and incoherent the difference in their legal treatment. The absence in the LOSC of any reference to living resources of the deep seabed was interpreted in different ways: for some States this absence was only due to the fact that at the time of drafting the Convention, there was no knowledge of living resources in the Area, while for some others the living resources were left out on purpose, therefore for the former[35] there is room for the interpretation of the provisions, by analogy with the mineral resources of the Area, while for the latter no such broader interpretation is possible. Moreover, notwithstanding the fact that part XI does not refer to living organisms, some delegations[36] underlined that in any case, article 140 is clear in requiring all activities in the Area to be carried out for the benefit of mankind as a whole, and taking into particular consideration the interests and needs of developing States. During the discussion some delegations[37] tried to focus attention on concrete and productive confrontation, underlining that it is not useful to continue debating the legal status of MGRs and especially repeating the already known positions expressed during the first meeting of the WG: continuing the debate can serve the States that want to keep the status quo, therefore there is a need to concentrate on searching for practical options, such as fair and equitable solutions. On the other hand, some States[38] strongly asserted that they considered it fundamental to solve the gap of interpretation over MGRs. Besides, South Africa underlined that the principle of the common heritage of mankind is not only a matter of benefit sharing, but it is about conservation and preservation of the resources for the benefit of mankind, therefore it comprises the adoption of area-based management tools and of environmental impacts assessment (EIA) for all the activities related thereto. Considering the legal regime to manage MGRs some delegations called for new regulations to be adopted before allowing any exploitation,[39] and to assure equitable use[40] and conservation for future generations,[41] while others declared that there is no critical mass to justify the establishment of a new legal regime[42] and that concentrating on building up a new agreement would detract from what can be realized through cooperation and transfer of technologies.[43]

Mare Liberum Courtesy: Uwe Tabatt

In the framework of MGRs another issue that raised concerns was the issue of intellectual property rights: some States[44] underlined that, according to article 241 of the LOSC, "marine scientific research activities shall not constitute the legal basis for any claim to any part of the marine environment or its resources", therefore there was an attitude of scepticism towards patenting MGRs. The European Union, besides declaring that there is a need for a new regulatory regime to deal with new emerging activities (such as for example bioprospecting) and with cumulative impacts of different activities, noted the importance of distinguishing between exploration, which implies the gathering of small samples of living organisms, and exploitation, which obviously implies harvesting a much larger amount of organisms, with consequently wider impacts on the ecosystem; every future arrangement for the management of MGRs should take into consideration this distinction and prescribe different regula-

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tions and standards. Some delegations were concerned with the risk that stricter regulations can undermine research[45] and fisheries.[46]

Considering the question of whether there is a governance or regulatory gap, and of how it should be addressed, the debate was also quite intense: while some sort of common understanding was expressed regarding a governance gap, at least intended as an implementation gap of the existing governance systems, no agreement was expressed regarding a regulatory gap. The European Union[47] strongly supported the need for a new implementing agreement to the LOSC to regulate new and emerging activities that are unregulated, and to address the cumulative environmental impacts of the activities. On the other hand, the United States strongly objected to this idea, stating that the existing legal framework is sufficient: they appeal to the customary regime of the freedom of the high seas, and underlined that every measure aimed at protecting biodiversity, including the establishment of MPAs, should be consistent with customary international law expressed by the LOSC. One delegation[48] underlined that the freedom of the high seas is not unlimited and does not explicitly refer to MGRs. Many other delegations[49] expressed the opinion that no new structure nor arrangement are needed: there is rather a need to exhaust the mandate of existing instruments before creating new ones, and a need to update them in accordance with new demands.

The governance and regulatory gap issue was an intersectoral one, that was touched by the discussions of all the other items. It is quite interesting that such a fundamental aspect was the last item on the agenda: to formulate a common position on the eventual legal *vacuum* on the subject matter should have been a priority, because if such a *vacuum* is not widely recognized, there is no room to discuss how to manage marine biodiversity beyond national jurisdiction. Maybe the *rationale* for this organization of the work was simply to avoid fossilizing the discussion, but probably no concrete step will ever be taken and no agreement on whatsoever arrangement will be reached if States cannot solve this key question.

The Possible Role of the International Seabed Authority

An interesting intervention of the International Seabed Authority (ISA) drew attention to the fact that the ISA has competence in environmental matters[50] concerning impacts that activities (intended as activities related to mineral resources, according to article 133 a) in the Area might have. The representative of the ISA underlined that, to this end, the Authority has adopted regulations for EIA and has collected a considerable amount of environmental data. Considering that this would be time consuming, and of course the difficulties of creating new institutions, the possibility to use the already existing competence of the ISA on environmental matters should be taken into consideration, within the framework of the future arrangement for the governance of marine biodiversity beyond national jurisdiction.

European Union's Proposal

The only delegation that put a concrete proposal on the table was the European Union: Slovenia, on behalf of the 27 member States, suggested adopting a step by step approach, through the adoption of short and medium term measures that, in their opinion, will make evident the necessity to elaborate a new implementing agreement to regulate marine biodiversity in ABNJ, as a long term measure. Short and medium term measures were indicated as follows: strengthening implementation of existing instruments; adopting and implementing enforcement measures against over fishing, IUU fishing and destructive fishing practices; strengthening cooperation regarding marine scientific research; adoption of EIAs and strategic environmental assessment (SEAs) procedures for all the activities to be undertaken in the high seas and adoption of area-based management tools, especially MPAs.[51] There seemed to be two focuses of the proposal: the wish to reach an agreement soon on the criteria to establish marine areas in need of protection,[52] and therefore to establish pilot multi-purpose MPAs in ABNJ; and the proposal to look at the FAO Treaty on Plant Genetic Resources for Food and Agriculture,[53] especially its multilateral mechanism, as a possible template that would offer a solution for sharing the benefit arising from the exploitation of genetic resources. The proposal was welcomed by most of the delegations: but none of them seemed ready to start concrete consultation over it, and some[54] objected to the reference to the Plant Treaty as a possible scheme for benefit sharing.

Future of the *ad hoc* Working Group

Broad support was expressed for the continuation of the working group in order to make further progress on the issue; but different views were expressed on whether the WG should remain *ad hoc* or be formalized; on how often it should meet and on its eventual competence to give recommendations to the GA. Some of the delegations[55] proposed to institutionalize the working group, requesting that it meet more regularly, while some[56] expressed concerns because of financing issues and proposed to let the Informal Consultative Process on Oceans and the Law of the Sea[57] deal with the subject matter in cooperation with the WG. Some States[58] objected to this institutionalization, and one[59] declared that it is a matter for the General Assembly to decide the destiny of the WG it has established.

During the 63rd session of the General Assembly, next Fall, hopefully a decision will be taken: whatever the Assembly will decide, it is important that a future framework for discussion will find the adequate political will to move on and elaborate concrete solutions, in order not to waste expertise and funds.

Joint Statement of the Co-Chairpersons

The WG was supposed to produce a co-chairpersons' report, collecting issues, questions, ideas and their conclusive remarks, to be transmitted, as an addendum to the report of the Secretary General on oceans and the law of

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the sea, to the 63rd session of the GA. The report was released on Friday morning, 2 May for the consideration of the participants, who were quite active in commenting on the paper, even though the co-chairpersons repeated several times that the document was not negotiable. They summarized the main positions that emerged during the discussion, underlining, in their personal concluding remarks, what the General Assembly may wish to consider: the need of continuing the debate on the subject matter, the need to improve effective implementation of existing instruments and to strengthen inter-sectoral cooperation, enhancing capacity building for developing States, the development of EIAs and ABMTs, practical measures to address the conservation and sustainable use of MGRs (without prejudice to the ongoing debate on their legal regime) and the enhancement of marine scientific research. What is noticeable is the absence of any reference to the implementing agreement to the LOSC for marine biodiversity in ABNJ, proposed by the EU and welcomed by many delegations: the participants could not find agreement on this issue but it took a quite large portion of the debate and it deserved some consideration (also in the concluding remarks and not only in the main text of the joint statement); maybe only an exhortation to go on discussing this issue, or to try to study a possible structure for such an arrangement along the lines suggested during the discussion.

The advance and unedited text of the joint statement, posted later on the website of the working group, contains just slight changes to the original text. The co-chairpersons took into consideration some stylistic improvements and added only a few sentences: a reference to the principle of common but differentiated responsibilities in relation to the efforts States should put into mitigating the impacts of anthropogenic activities, including climate change; and two explicit declarations of the fact that some delegations are opposed to a new international regime in relation to MGRs and to the enlargement of the competence of RFMOs beyond fisheries management.

Conclusions

Through informal conversations with the delegations disappointment was palpable for the lack of any concrete conclusion and agreement: the speeches of many delegations were dedicated to the repetition of the positions already expressed in the previous meeting of the WG, therefore widely known, especially concerning the legal regime of genetic resources. Many delegations of the G77 group were stuck in affirming the applicability of the principle of the common heritage of mankind; this stubbornness preventing any step further being taken, since the US delegation was underlining its opposition to the acceptance of this principle. It was appreciable that some delegations asked the participants several times to leave aside the conflict on the interpretation of the legal regime in order to concentrate on practical solutions. Unfortunately this call went unheard. Leaving aside any criticism, based on the suspicion that behind this standstill there was a simple intention to take up time and to avoid proceeding, this consultation process underlines once again the conflict between States defending the freedom of the high seas and those willing to reduce this freedom in favour of other principles: in this case, the protection of the marine environment, the preservation of the resources for future generations and equitable benefit sharing. As history teaches, this is not the first time the freedom of the high seas has been questioned, and breaches of its integrity which occurred in the last century[60] cause us to wish for a future agreement in the international community for what concerns the management of marine biodiversity beyond national jurisdiction. Compromise lies somewhere in the middle of the conflicting positions, therefore common efforts should be made by both sides to move forward.

Notes

[1] It comprised 89 States' delegations; 4 international organizations having received a standing invitation to participate as observers in the sessions and the work of the General Assembly; 5 international organizations outside the UN system; 8 between specialized agencies and UN bodies and 10 NGOs.

[2] For all the documents related to the working group, first and second meeting, please visit the website http://www.un.org/Depts/los/biodiversityworkinggroup/biodiversityworkinggroup.htm.

[3] Principle 21 of the 1972 Stockholm Declaration on the Human Environment, widely recognized to be customary international law: Birnie and Boyle, *International Law and the Environment* (Oxford, 2002), p. 109.

[4] Article 86 of the United Nations Convention on the Law of the Sea.

[5] Article 87 of the United Nations Convention on the Law of the Sea.

[6] "Area means the seabed and the ocean floor and subsoil thereof beyond limits of national jurisdiction", while "activities in the Area means all activities of exploration for and exploitation of, the resources of the Area", article 1.1 of the LOSC; and "resources means all solid, liquid or gaseous mineral resources *in situ* in the Area at or beneath the seabed, including polymetallic nodules", article 133 of the LOSC.

[7] According to articles 87–117.

[8] Article 88.

[9] Article 89.

[10] Article 4 b) of the Convention on Biological Diversity.

[11] Such as for example bioprospecting and seabed tourism.

[12] UNGA Res. 59/24.

[13] "(a) To survey the past and present activities of the United Nations and other relevant international organizations with regard to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction; (b) To examine the scientific, technical, economic, legal, environmental, socio-economic and other aspects of these issues; (c) To identify key issues and questions where more detailed background studies would facilitate consideration by States of these issues; (d) To indicate, where appropriate, possible options and approaches to promote international cooperation and coordination for the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction"; UNGA Res. 59/24, para. 73.

[14] New York, 13–17 February 2006, Report: UNGA Res. 61/65, 20 March 2006.

[15] See UNGA Res. 62/215, 22 December 2007, through which the General Assembly acknowledged the report of the first meeting.

[16] Dr. Auster, from the University of Connecticut presented "Linking biodiversity in the deep sea to international management needs, Dr. Watling from the University of Hawaii presented "Benthic biogeographic provinces for the high seas and Dr. Escobar-Briones from the National Autonomous University of Mexico presented "The relevance of biogeographic classification in areas beyond national jurisdiction" and "The Assessment of the Assessment". The Assessment of Assessments, established through UNGA Res. 60/63 (8 March 2006, para. 90), represents the first step in this international initiative to improve understanding of the oceans and to develop a global mechanism for delivering science-based information to decision makers and public. In 2007 a report by UNEP and IOC was created highlighting patchiness of data (gaps and emerging uses) and made recommendations. A draft report was distributed in May 2008, with the completed work to be presented in 2009 and finalized in 2010. Please visit the website http://www.unga-regular-process.org/index.php?option=com_frontpage&Itemid=1.

[17] UNGA Res. 61 /222, 16 March 2007, para. 91.

[18] As noted by Argentina.

[19] Brazil.

[20] Defined as "search for biological compounds of actual or potential value to various applications, in particular commercial applications", A/62/66, para. 150.

[21] In the framework of the application of UNGA Res. 61/105 and of the development of international guidelines for the management of deep sea fisheries in the high seas by the FAO. ➽

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[22] Within the framework of the FAO.
[23] Within the framework of the CBD.
[24] See for example the InterRidge initiative: http://interridge.whoi.edu/.
[25] Kenya and the United States.
[26] Who declared that benefits would come from the use of products that will be developed through expensive research, and not from benefit sharing. Even Iceland's delegation declared itself open to discuss benefit-sharing options.
[27] Argentina, the EU, the G77 group and China and South Africa.
[28] Argentina and South Africa.
[29] States auspicated the adoption of these criteria at COP9 of the CBD in May 2008 in Bonn: for more information on the adoption of these criteria see the website: http://www.cbd.int/cop9/.
[30] Iceland.
[31] Argentina, Brazil, Mexico, South Africa and all the States associated with the G77 and China.
[32] According to article 136 of the LOSC "The Area and its resources are the common heritage of mankind": this principle is not properly defined in the LOSC, but articles 137-141 describe its core features: no sovereignty of any state, all rights vested in mankind as a whole, on whose behalf the International Seabed Authority acts, no acquisition, final aim of every activity should be the benefit of mankind, equitable sharing of financial and other economic benefits and exclusive use for peaceful purposes.
[33] Canada, Japan and United States; the last delegation explicitly rejected the concept of common heritage of mankind for MGRs.
[34] India and Mexico.
[35] Brazil, Mexico and South Africa.
[36] Iran, South Africa, Trinidad and Tobago, Uganda and all the States associated with G77 and China.
[37] The European Union, Iceland and Japan.
[38] Argentina and Mexico.
[39] Venezuela.
[40] Kenya.
[41] Argentina and Russian Federation.
[42] Brazil.
[43] Canada.
[44] Brazil and the G77 group and China.
[45] Canada, Japan and United States.
[46] Japan.
[47] Supported by the Marshall Islands, Mexico, Venezuela, Greenpeace and the Global Forum on Oceans, Coasts and Islands – declaring that the very existence of the WG demonstrates that there is a legal vacuum and that the international community felt it needed to be filled through a global confrontation; and favoured by New Zealand, Norway and the Russian Federation that declared it was open to discuss such a possibility: the first two only regarding MGRs, the third one only after exhausting the implementation efforts of existing instruments.
[48] Mexico, supported by WWF.
[49] Argentina, Brazil, Canada, Iceland, Japan and Kenya.
[50] According to the LOSC and to the 1994 Agreement relating to the Implement of Part XI of the LOSC.
[51] The European Union referred to the 1995 Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean, within the framework of the 1976 Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean amended in 1995 (Barcelona Convention). The Protocol provides for the establishment of a list of specially protected areas of Mediterranean interest. This may include sites which are of importance for conserving the components of biological diversity, sites which contain ecosystems specific to the Mediterranean or the habitats of endangered species, that can be partly or wholly on the high seas: in this case the proposal to list a site must be made by two or more neighbouring Parties.
[52] The EU proposed to ask the next Conference of the CBD to adopt the criteria that have been elaborated, but the United States objected that the working group is mandated to communicate only with the General Assembly.
[53] Signed in 2001 and entered into force in 2004.
[54] South Africa and United States.
[55] Canada, the European Union and South Africa, supported by IUCN, WWF and the Advisory Committee for the Protection of the Sea.
[56] Brazil and Japan.
[57] Established in 1999 by the General Assembly in order to facilitate the annual review by the General Assembly, in an effective and constructive manner, of developments in ocean affairs and the law of the sea by considering the report of the Secretary-General on oceans and the law of the sea and by suggesting particular issues to be considered by it, with an emphasis on identifying areas where coordination and cooperation at the intergovernmental and inter-agency levels should be enhanced, UNGA Res. 54/33.
[58] Canada, Iceland and the United States.
[59] Iceland.
[60] In favour for example of coastal states' powers related to pollution prevention.

CSD-16

Review Year Prodded by Food Crisis

Under the previously agreed approach of two-year "Implementation Cycles", deliberations of the 16th session of the UN Commission on Sustainable Development[1] from 5 to 16 May 2008 focused on the thematic cluster of agriculture, rural development, land, drought, desertification and Africa;[2] reviewing barriers and constraints in implementation, as well as lessons learned and best practices. Chaired by Francis Nhema, Minister of Environment and Tourism (Zimbabwe),[3] this year's session gave participants the chance to emphasize the correlation between the session's theme, the food crisis and climate change. An additional Small Island Developing States (SIDS) Day offered an opportunity to review and assess progress in advancing the sustainable development of SIDS.

After taking care of procedural matters, the Under-Secretary-General for Economic and Social Affairs, Sha Zukang, referred to the world food crisis, stressing that it threatened to unravel gains by aggravating poverty and that the discussions of CSD-16 should contribute actively to alleviate the impacts.

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Before thematic discussion on the various clusters, an overview of progress towards achieving sustainable development was presented [4] and brief presentations on the outcomes of regional implementation meetings.[5] The ensuing thematic discussions are summarized in detail in the Chairman's Summary, Part I.[6]

Following the decision from CSD-13 to devote one day at each of its review sessions to Small Island Developing States and the Mauritius Strategy, CSD-16 held its SIDS Day.[7] Therein, the Report of the Secretary-General on the sustainable development of SIDS[8] was introduced and Under-Secretary-General Sha Zukang made the opening statement. Referring to the issues before the session, he said, "…we can ensure that the SIDS benefit from the engagement of the full range of representation in the international community with expertise in these issues. At the same time, considering the thematic cluster within the context of the vulnerabilities of SIDS, sharpens our sense of how timely and urgent these issues are."

Delegates considered implementation of the CSD-13 Decisions on Water and Sanitation.[9] During discussions,[10] it was noted that the decisions reflect firm consensus that access to water and sanitation play a critical role in the achievement of the Millennium Development Goals and that Integrated Water Resource Management is the critical tool for the entire water sector to manage water resources. Furthermore, there was a call for supporting the African Ministerial Conference on Water (AMCOW).[11] Lastly, delegates observed that this was the first time that CSD had reviewed its own decisions and that future exercises should be undertaken in the same vein.

Continuing its tradition of encouraging participation, considerable time was allowed for dialogue between major groups and representatives of partnership initiatives during the session.[12] This was the first time since the World Summit on Sustainable Development that representatives of major groups and partnerships held a conversation with Governments in their efforts to support and facilitate implementation. Highlighted in the discussions were the following: obstacles and constraints, lessons learned and best practices, means of implementation, and continuing challenges.

Toward the end of the session, UN Secretary-General Ban, in his opening statement to the High-level segment, called for a Second Green Revolution to feed the world's growing population. Furthermore, during the segment, the more than 30 participants stressed the significance of a concerted international response to the global food crisis. Highlighting the crucial role that the United Nations system could play, many speakers welcomed the Secretary-General's recently established Task Force on food security. Above all, delegates underlined the need to scale up agricultural productivity while balancing the urgent need for bigger harvests with the environmental degradation that could result from unsustainable, exploitative farming.

On the last day of the session, Part II of the Chairman's Summary was discussed and after many comments from the G-77 and China, was adopted by session. As this Summary is of special interest, it can be found reprinted in its entirety on page 224 in Selected Documents. In addition, the draft report of its current session was adopted,[13] as well as the provisional agenda for CSD-17.[14] Lastly, the proposed strategic framework for 2010–2011: sub programme 4, Sustainable Development[15] from the Secretary-General was noted.

Contrary to the plaques: Achim Steiner, Executive Director of UNEP (middle) and seated to his right, Luc Gnacadja, Executive Secretary of UNCCD Courtesy: WEB

Concluding the session, the Chairman acknowledged that there had been a sense of humanity among the Commission's participants and that the session had been a victory for the world community.

CSD-17

Immediately followed by the closing of CSD-16 was the first meeting of CSD-17, where bureau elections took place. Elected by acclamation as Chairperson was Gerda Verburg, Minister of Agriculture, Nature and Food Quality (the Netherlands). Additionally, Javad Amin-Mansour (Iran) was elected as Vice-President. Remaining members of the bureau will be elected later upon proposal of the regional groups. Lastly, the representative of the Netherlands expressed thanks from his country.

Entering next year's negotiating session, CSD-17 will surely be influenced by the continuing food crisis, as well as preparations for the 2009 Climate Talks in Copenhagen.

(WEB/ATL)

Notes

1 All documents of CSD-16 are available online at: http://www.un.org/esa/sustdev/documents/docs_csd16.htm.

2 Reports of the Secretary-General on the individual thematic clusters for the implementation cycle are listed as documents E/CN.17/2008/3-8.
3 See sidenote: "Preparing CSD" in Tsioumani, Elsa, "CSD-15 Concludes with No Final Outcome Adopted". Environmental Policy and Law, 37/4, IOS Press, Amsterdam. 2007, pages 288–289.
4 Document E/CN.17/2008/2: Overview of progress towards sustainable development: A review of the implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the Johannesburg Plan of Implementation – Report of the Secretary-General.
5 Summarized in documents E/CN.17/2008/12/Add.1-5.
6 Available online at: http://www.un.org/esa/sustdev/csd/csd16/documents/chairs_summary.pdf.
7 Indicating the importance of the topic, a decision was adopted by delegates that all future SIDS Days should not be convened in parallel with other discussions.
8 Document E/CN.17/2008/9: Integrated review of the thematic cluster of agriculture, rural development, land, drought, desertification and Africa in small island developing States.
9 Document E/CN.17/2008/11: Review of progress in implementing the decision of the 13th session of the Commission on Sustainable Development on water and sanitation – Report of the Secretary-General.
10 A full summary of this discussion is available online at: http://www.iisd.ca/vol05/enb05262e.html.
11 Launched in Abuja, Nigeria on 30 April 2002, "AMCOW is to provide political leadership, policy direction and advocacy in the provision, use and management of water resources for sustainable social and economic development and maintenance of African ecosystems and strengthen intergovernmental cooperation to address the water and sanitation issues in Africa." Further information is online at: http://www.amcow.org/index1.php.
12 Discussion papers submitted by major groups on the thematic clusters are contained in the Notes by the Secretariat, listed as documents E/CN.17/2008/13/Add.1-9.
13 Document E/CN.17/2008/L.4.
14 Document E/CN.17/2008/L.2.
15 Document E/CN.17/2008/14.

W.E. Burhenne with Hama Diallo, former UNCCD Executive Secretary and current Vice President of the National Assembly of Burkina Faso Courtesy: WEB

Significant UN Days and Years

22 March:	**World Day for Water**
4 April:	**International Day for Mine Awareness and Assistance in Mine Action**
22 May:	**International Day for Biological Diversity**
5 June:	**World Environment Day**
17 June:	**World Day to Combat Desertification and Drought**
9 August:	**International Day of the World's Indigenous People**
15 September:	**International Day of Democracy**
16 September:	**International Day for the Preservation of the Ozone Layer**
Last week of September:	**World Maritime Day**
8 October:	**International Day for Natural Disaster Reduction**
16 October:	**World Food Day**
24 October:	**United Nations Day**
6 November:	**International Day for Preventing the Exploitation of the Environment in War and Armed Conflict**
11 December:	**International Mountain Day**
2005–2014:	**UN Decade of Education for Sustainable Development**
2005–2014:	**Second International Decade of the World's Indigenous People**
2005–2015:	**International Decade for Action: "Water for Life"**
2008:	**International Year of Planet Earth**
2008	**International Year of Sanitation**
2008:	**International Year of the Potato**
2009:	**International Year of Natural Fibres**
2010:	**International Year of Biodiversity**
2010–2020:	**UN Decade for Deserts and the Fight against Desertification**
2011:	**International Year of Forests**

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CBD / COP-9

A Converging Spectrum

Meeting in Bonn, Germany from 19–30 May 2008 for the 9th Conference of the Parties to the Convention on Biological Diversity,[1] more than 4,000 delegates participated, among other things, in adopting a roadmap for the negotiation of an international Access and Benefit Sharing (ABS) regime, scientific criteria and guidance for marine areas in need of protection, and the first-ever Resource Mobilization Strategy for the Convention.

Signifying CBD's maturing importance, COP-9 garnered world-wide recognition in newspapers and journals, which published quite extensively on the preparations and the negotiations among delegates. Furthermore, several national and state parliaments have already taken account of the negotiations in Bonn through special motions of their own. For this reason, extensive reporting[2] on the discussions, negotiations and side events is not necessary in this report. However, as media coverage following the Conference did not report on the outcomes, the following list highlights the broad variety of topics adopted in the final 37 decisions:[3]

- Financial Resources and the Mechanism
- Progress of the Strategic Plan
- Cooperation with Other Conventions and International Organizations
- Technology Transfer
- Scientific and Technical Cooperation
- Liability and Redress
- Strategy for Plant Conservation
- The Strategic Plan
- Ecosystem Approach
- South-South Cooperation on Biodiversity for Development
- Communication, Education and Public Awareness
- International Year of Biodiversity
- Promoting Business Engagement
- Cities, Local Authorities and Biodiversity
- Work on Alien Species
- Follow-up to the Millennium Ecosystem Assessment
- Marine and Coastal Biodiversity
- Global Taxonomy Initiative
- Biodiversity of Dry and Sub-humid Lands
- Biological Diversity of Inland Water Ecosystems
- Protected Areas
- Island Biodiversity
- Forest and Agricultural Biodiversity
- Biofuels
- Climate Change.

It must be noted that negotiations were not always easy, especially those related to the question of agricultural biodiversity and biofuels. During this debate, one participant spoke of the "spectre of biofuels and its perverse incentives".

Among the many side events, some of special interest included a discussion on the Polar Regions, the Alpine Convention[4] and a high-level session with parliamentarians.

During the high-level segment, Germany took the lead in financial support for biodiversity conservation. Noting the linkages between poverty eradication and biodiversity conservation, Chancellor Angela Merkel pledged € 500 million for the period 2009–2012 for the protection of forest ecosystems, and an additional € 500 million for every year thereafter. The Norwegian Minister of Environment, Erik Solheim pledged € 600 million annually for the next three years for global forest protection.

While widespread perceptions of the overall progress made at the Conference were not easy to nail down – due to the myriad parallel discussions on many important topics – COP-9 consolidated the CBD's role as an encompassing convention with an impact on all aspects of biodiversity; supported by an array of sub-processes driving its work. This is an indication of what CBD COP-10 in Nagoya, Japan scheduled for October 2010 has been tasked to manage. (WEB/ATL)

German Federal Environment Minister, Sigmar Gabriel as President of COP-9
Courtesy: IISD

Notes

1 All documents prepared for CBD COP-9 are available online at: http://www.cbd.int/cop9/doc/

2 In-depth coverage and a final summary of the Conference can be accessed online at: http://www.iisd.ca/biodiv/cop9/.

3 Working documents pertaining to the decisions are online at: https://www.cbd.int/cop9/doc/work/?tab=2. At the time of this issue's layout, the final decisions of CBD COP-9 were not yet available.

4 A Memorandum of Cooperation was signed between CBD, the Alpine Convention and the Carpathian Convention for future institutional cooperation, exchange of information and expertise, collaboration on the implementation of the Conventions and a programme of wok on mountain biodiversity.

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GEF / Council

Programme of Work Approved for 48 Projects

by Soledad Aguilar*

The Global Environment Facility (GEF) Council held its spring meeting in Washington D.C. (USA) from 22–25 April 2008 and approved a programme of work amounting to US$ 283.27 million allocated to 48 projects of environmental significance. Issues that generated debates in recent years, such as the development of the Adaptation Fund, the design of a resource allocation framework (RAF) and the GEF replenishment, were resolved prior to this meeting, which thus focused on administrative matters. Members, for example, progressed in the implementation of a programmatic approach to the GEF portfolio, endorsing ten different 'programmes' that will encompass several issue-related sub-projects to increase their aggregate impact. This brief will review key issues addressed by the GEF Council during the meeting, including the approval of its programme of work, developments in implementing existing mandates regarding investments in technology transfer, and comments on the RAF and the Kyoto Protocol's Adaptation Fund.

Background

The GEF's 178 member countries manage a trust fund under the *aegis* of the World Bank that provides grant and concessional funding to meet the incremental costs of achieving agreed environmental goals in the areas of biological diversity, climate change, international waters, land degradation, ozone layer depletion and persistent organic pollutants. The GEF also acts as financial mechanism for four international environmental conventions: the Convention on Biological Diversity, the UN Framework Convention on Climate Change (UNFCCC) and its Kyoto Protocol, the UN Convention to Combat Desertification, and the Stockholm Convention on Persistent Organic Pollutants (POPs). It helps fund initiatives that assist developing countries in meeting the objectives of these environmental conventions, and also collaborates closely with other related treaties and agreements. The GEF Council functions as the main governing body of the GEF and is integrated by 32 members meeting twice a year, each representing a group of countries ('constituency') including both donors and recipients of GEF funding.

Programme of Work and Programmatic Approach

The GEF Council reviewed the proposed work programme (document GEF/C.33/9) and its members welcomed the increasing number of programmatic approaches, citing their benefits over regular stand-alone projects, in terms of global environmental impact and resource allocation efficiency. Some members questioned the inclusion in the work programme of POPs projects in countries without a prior POPs National Implementation Plan (NIP). In response, the GEF Secretariat clarified that those countries are expected to have their NIP ready or to make significant progress on their NIP by the time the project is presented for endorsement or approval by GEF's chief executive officer (CEO).[1]

The Council approved the work programme comprising 48 project concepts amounting to US$283.27 million (including GEF and implementing agency's fees). It also approved procedures for developing specific 'programmes' and the objectives and basic principles for programmatic approaches, based on the presentation "*From Projects to Programmes: Clarifying the Programmatic Approach in the GEF Portfolio"* (document GEF/C.33/6). Council members considered programmatic approaches as an option to 'support more effectively the sustainable development agenda of developing countries and countries with economies in transition.'[2]

The following ten programmes, which include 21 of the projects approved in the programme of work, were endorsed:

(i) a biosafety programme including projects in seven Caribbean countries and Cameroon;
(ii) a programmatic framework for energy efficiency in India;
(iii) an umbrella programme for promoting efficiency in residential and commercial buildings with projects in Turkey and Uzbekistan;
(iv) a Pacific Alliance for Sustainability programme (PAS), including projects in fifteen Pacific island countries amounting to US$ 22.82 million;
(v) a programme on integrated nature resources management in the Middle East and North-Africa region (MENARID), including projects in Iran, Jordan, Morocco and Tunisia amounting to US$ 21.77 million;
(vi) the Coral Triangle Initiative, with global and regional projects approved for US$ 18.4 million;
(vii) a partnership on land degradation in China's dryland ecosystems;
(viii) a sustainable forest management programmatic framework with projects in Mexico, Argentina, Bolivia and Paraguay amounting to US$ 13.76 million;
(ix) a country programme framework for sustainable forest land management in Vietnam; and
(x) a programme for demonstrating and scaling-up sustainable alternatives to DDT in vector management including projects in Georgia, Kyrgyzstan and Tajikistan for US$ 2.05 million.

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Investments in Technology Transfer

The GEF Council considered a document prepared following the Conference of the Parties to the UNFCCC decision 4/CP.13 (2007), which requested the GEF to 'elaborate a strategic programme to scale-up the level of investment for technology transfer to help developing countries address their needs for environmentally sound technologies...' This agenda item generated a debate as Council members' views varied widely. For example, questions were raised on the limited number of reports that have been made available from previously funded technology needs assessments and the proposal to establish technology-sector platform committees.[3]

Members did not agree on a strategic programme to scale-up the level of investment in the transfer of environmentally-friendly technologies, but nevertheless directed the GEF Secretariat to prepare a report describing its work to date on financing of and current financing options for technology transfer.[4] The paper was presented at the 28th session of the UNFCCC's Subsidiary Body on Implementation, held from 4–13 June 2008 in Bonn, Germany.[5]

During a parallel meeting of the Council for the Least Developed Countries Fund and Special Climate Change Fund (LDCF/SCCF), convened on 24 April 2008, the LDCF/SCCF Council also reviewed a document on a strategic programme to scale-up the level of investment in the transfer of environmentally-sound technologies (document GEF/LDCF.SCCF.4/5), and agreed that the Secretariat should make arrangements for the following immediate actions to be taken under the SCCF Programme on Technology Transfer:

(i) Work with the UN Development Programme (UNDP) and the UN Environment Programme (UNEP) to present a report on past experience of all technology needs assessments (TNAs) supported through funding from the GEF Trust Fund, including a full accounting of all resources committed, allocated, and disbursed; a description of all results achieved; publication of all completed TNAs; and a summary of all of the lessons learned through the initial round of TNAs; and

(ii) Prepare guidelines for future support to another round of TNAs, including technology market assessments to be funded as independent projects. These guidelines will ensure that the projects to be funded will be separate from other support to countries and that they will be carried out in a manner ensuring accountability, proper reporting, and proper methodological rigor.[6]

Resource Allocation Framework (RAF)

The Council reviewed a "Progress Report on the Implementation of the RAF" (document GEF/C.33/Inf.4) which indicated that, with the approval of the April 2008 work programme, about 28% of the resources available in the biodiversity and climate change focal areas for the 2006–2010 period will have been utilized. Several Council members expressed concern about the slow uptake in programming resources allocated under the RAF, particularly in small allocation and group allocation countries, citing reasons including lack of transparency in tracking projects submitted, limited willingness of GEF Agencies to partner with countries with small allocations, rigidity and lack of clarity in policies and procedures, and delays introduced by the need to submit supplemental information. A few Members highlighted some positive experiences with the RAF and their ability to have their projects approved quickly.[7] A thorough evaluation of the RAF is underway and will be on the table for the next GEF Council meeting, therefore concerns expressed by countries will be addressed at that stage.

Adaptation Fund

Monique Barbut, GEF's CEO, briefed Council members on the deliberations held within Kyoto Protocol negotiations on the arrangement of the Adaptation Fund, and on the conclusions of the first meeting of the Adaptation Fund Board, recalling that the GEF was invited by the UNFCCC Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol to provide Secretariat services to the Adaptation Fund on an interim basis.[8]

Monique Barbut Courtesy: GEF

Among the tasks proposed for allocation to the GEF as Adaptation Fund Secretariat, the first Adaptation Fund Board meeting proposed the following: managing the daily operations of the Fund and reporting to the Adaptation Fund Board; serving as liaison between the Board, Parties and agencies; ensuring the implementation of operational polices adopted by the Board; operationalizing the project cycle, including review and clearance of qualified project proposals to be presented for Board approval; monitoring

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implementation progress and periodic reporting to the Board on portfolio performance; and coordinating the formulation and oversight of the implementation of programme activities.[9]

The Council accepted the UNFCCC's invitation, directing the GEF CEO and Secretariat to make necessary arrangements to provide Secretariat services to the Adaptation Fund consistent with UNFCCC Decision 1/CMP.3.

Other Matters

Other matters approved by the GEF Council include a proposal to reconstitute the Scientific and Technical Advisory Panel (STAP) with six (rather than 15) members and to appoint Thomas Lovejoy as the Chair for a two-year term. The GEF LDCF/SCCF Council, in turn, approved a US$14.473 million SCCF Grant to fund adaptation in Pacific island states, subject to comments on the project.[10]

The next GEF Council meeting will be held on 10–14 November 2008, together with a meeting of non-governmental organizations and meetings of the LDCF/SCCF Council. One of the main issues to be addressed at the next GEF Council meeting will be the mid-term review of the RAF.

Notes

1 GEFa, 2008. "Highlights of the Council's Discussions, GEF Council Meeting, 22–24 April 2008." < http://gefweb.org/interior.aspx?id=17146>.
2 GEFb, 2008. "Joint Summary of the Chairs, GEF Council Meeting, 22–25 April 2008." < http://gefweb.org/interior.aspx?id=17146>.
3 GEFa, 2008. Link in footnote 2.
4 GEFb, 2008. Link in footnote 3.
5 UNFCCC, 2008. "Report of the Global Environment Facility on a strategic programme to scale-up the level of investment for technology transfer. Note by the Secretariat" Document FCCC/SBI/2008/5.
6 GEFc, 2008. "Joint Summary of the Chairs, GEF LDCF/SCCF Council Meeting, 24 April 2008." < http://gefweb.org/interior.aspx?id=17146>.
7 GEFa, 2008. Link in footnote 2.
8 GEFb, 2008. Link in footnote 3.
9 Adaptation Fund Board, 2008. "Role and Responsibilities of the Adaptation Fund Secretariat," Document AFB/B.1/5. <http://www.adaptation-fund.org/afbb1documents.html>.
10 GEFb, 2008. Link in footnote 3.

UNFCCC

Spring 2008 Climate Meetings: Bangkok and Bonn

by Joanna Depledge*

With the ink barely dry on the December 2007 Bali Action Plan (see EPL 38/1), climate change delegates were on the road once again in Spring 2008 facing a demanding schedule of meetings. The first session of the *Ad Hoc Working Group on Long-term Cooperative Action under the Convention (AWGLCA)*, established in Bali, took place from 31 March to 4 April in Bangkok, with its second session held just two months later from 2 to 13 June in Bonn. Meeting in parallel, the *Ad Hoc Working Group on further commitments for Annex I Parties under the Kyoto Protocol (AWGKP)* held its fifth session in two parts, the first in Bangkok, the second in Bonn. The two permanent subsidiary bodies of the climate change regime – the *Subsidiary Body for Scientific and Technological Advice (SBSTA)* and the *Subsidiary Body for Implementation (SBI)* – also met in Bonn for their 28th sessions (see table below for the 2008 schedule of meetings).

Table: 2008 sessions of the climate change regime

Session	Dates	Venue
AWGLCA-1, AWGKP-5 part I	31 March – 4 April	Bangkok, Thailand
AWGLCA-2, AWGKP-5 part II SBSTA and SBI 28	2–13 June	Bonn, Germany
AWGLCA-3, AWGKP-6 part I	21–27 August	Accra, Ghana
AWGLCA-4, AWGKP-6 part II SBSTA and SBI-29 COP-14 and CMP-4	1–12 December	Poznan, Poland

Unsurprisingly, the focus of attention was on the two AWGs, which face a deadline of December 2009, when the 15th Conference of the Parties (COP) and 5th COP serving as the meeting of the Parties to the Kyoto Protocol (COP/MOP) will meet in Copenhagen, charged with strik-

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ing an historic deal on the next phase of the climate change regime.

The Bonn session, in particular, was characterized by what one delegate described as "organized chaos",[1] with the sheer number of contact groups, informal consultations, briefings and other gatherings making it difficult to keep up with the negotiations. Debates often came up against potential overlaps, with several issues (or very similar ones) discussed under more than one agenda item, in more than one body. The SBSTA and SBI did make some progress in streamlining their agendas, with a couple of items unusually declared "closed", or postponed until after Copenhagen. Nonetheless, this first experience with the four climate change bodies meeting together in Bonn, although by no means disastrous, led the *Earth Negotiations Bulletin* to identify "managing complexity" as the central challenge facing the negotiations.[2]

This report focuses especially on the sessions of the AWGLCA and AWGKP, bringing in debates and outcomes from the SBSTA and SBI, as they relate to negotiations on the future Copenhagen deal.

AWGLCA-1 and 2

At its first session in Bangkok, the AWGLCA (chaired by Luiz Figueiredo Machado, Brazil) concentrated on agreeing its work programme. Early on, the AWG wisely decided not to try to prioritise the five "building blocks" of the Bali Action Plan – mitigation, adaptation, technology transfer, finance and a "shared vision" – but instead to address all of these at each negotiating session. Debates in Bangkok centred, instead, on the topics and scheduling of proposed workshops, intended to provide a more informal opportunity to exchange ideas. Predictably, delegations each had their own preferred workshop topics to suggest, and differing views on how these should be sequenced. In the end, delegates agreed to a list of eight workshops for 2008. In doing so, they implicitly prioritized finance, technology transfer and adaptation, by deciding to hold the first round of workshops on these topics at AWGLCA-2 in Bonn. Plenary exchanges on each of the five building blocks were also held in both Bangkok and Bonn, with a contact group discussing each building block in more depth in Bonn.

Although AWGLCA-2 in Bonn did see the launch of substantive discussions, there was no attempt to reach any agreement, given the early stage of the process. Formal conclusions were limited to an invitation to parties to submit "specific textual proposals" on the five building blocks, and to the secretariat to prepare technical papers on various topics. A Chair's summary was also circulated for each of the three workshops.

Financing: The critical issue of financing generated the most concrete and creative set of proposals, from both industrialized and developing countries. This ensured a lively debate at the AWGLCA-2 workshop on the topic.

Some of the proposals seek to ensure higher levels and more predictable government funding for climate change activities. China, for example, proposed that developed countries contribute 0.5% of GDP (in addition to existing development assistance) for climate change activities in developing countries. Mexico, in turn, outlined a "world climate change fund", to which *all* countries could contribute, based on defined, equitable criteria, such as population, GDP and/or emissions. All countries could potentially draw on the fund to finance mitigation activities, with separate levies going to the existing Adaptation Fund, and to a new clean technology fund. According to Mexico, the fund should raise at least US$10 billion a year.

Other proposals put forward so-called "innovative" financing ideas, which would not rely on government spending. Norway, for example, proposed to auction a proportion of assigned amount units (AAUs – the emission allowances that Annex I parties may emit in a commitment period), with the proceeds going to adaptation in developing countries. Switzerland suggested a global levy of US$2 per ton of CO_2, with exemptions for those countries emitting below 1.5tCO_2 per capita (therefore involving only the top 70 or so emitters). The levy would go into a new multilateral adaptation fund.

Korea suggested that "nationally appropriate mitigation actions" implemented by developing countries could earn credit, which could then be sold on the global market, thereby generating funds for the developing country concerned. Sales could be subject to a levy, as is currently the case under the clean development mechanism (CDM), which would go towards adaptation. In effect, this would represent an expansion of the CDM, which developing countries would implement unilaterally (without the need for a project-specific foreign investor), and not just involving projects, but also programmes and policies.

Another financing idea drawing on the CDM would be to extend the CDM's "adaptation levy" also to joint implementation (JI) and emissions trading. This is currently being considered by the AWGKP, and also by the review of the Kyoto Protocol under the SBI (see below).

There was also discussion on a further set of innovative financing ideas centred on so-called "bunker fuel" emissions from international aviation and marine transport, which are currently unregulated. Ideas include imposing a levy on bunker fuel consumption, or on international air travel, or even auctioning emission allowances in this sector. This is another issue that is on the table also in the AWGKP, as well as the review of the Kyoto Protocol and the SBSTA (see below).

The many innovative ideas put forward reflect the massive gap that exists between the scale of current funding levels, and those that are urgently required for effective mitigation and adaptation. They also reflect disappointment in the current financial structure under the climate

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change regime, with developing countries persistently and increasingly frustrated at the (under) performance of the Global Environment Facility (GEF) as the current operating entity of the regime's financial mechanism. This frustration also came to the fore under several agenda items in the subsidiary bodies. Routine information provided by the GEF to the SBI was found to be incomplete, and the G-77 generally denounced available funding as insufficient. Concerns were raised about co-financing requirements, along with the GEF's Resource Allocation Framework (RAF), notably its application to the funding of national communications. Elsewhere, a report on the GEF's work in developing a new strategic programme to scale-up technology transfer (mandated by the Bali COP) met with a lukewarm response, especially from developing countries. The main criticism was failure to faithfully follow guidance from the COP.

Aside from the role of the GEF, the real sticking point in the negotiations on finance will be the differing emphasis placed on the role of the private sector by recipient and donor countries. Developing countries insist that funds from donor governments must play the dominant role in financing developing country mitigation, if only because it is industrialized country *governments* that are committed to providing financial assistance under the Convention. Donors, however, claim that the bulk of funding will inevitably come from the private sector and the growing carbon market, with the US, in particular, maintaining a consistent line that the "world has changed" since the Convention was adopted.

Adaptation: Discussions on adaptation, notably in the Bonn workshop, were also enriched by specific proposals on institutions and financing, especially from developing countries. China suggested a new "climate change adaptation committee" under the Convention, with AOSIS proposing a (presumably similar) "adaptation coordinating body". Several developing countries advocated a network of regional cooperation centres on adaptation. In terms of financing, vulnerable developing countries were keen to remind donors that adaptation has trouble attracting private money, and is almost entirely dependent on government spending as a public good. In addition to the ideas discussed in the funding workshop, AOSIS proposed a new Convention adaptation fund (to complement that under the Kyoto Protocol), with contributions based on emissions and ability to pay. AOSIS also reiterated its longstanding proposal for an international insurance mechanism that would help small-island developing states cope with the financial risks posed by extreme weather events. In response, the secretariat was asked to prepare a technical paper on innovative insurance flows. A workshop dedicated to risk management strategies and insurance will also be held at AWGLCA-4 (Poznan, December 2008).

Developed countries, including the EU, Japan and the US, were noticeably more general in their proposals, with the EU suggesting a "framework for action" on adaptation, reminiscent of the existing framework for action on technology transfer.

Other central themes were the importance of improving national planning for adaptation, and the potential for structured and funded programmes of action to help developing countries in this regard (only least developed countries (LDCs) currently receive funding to prepare national adaptation programmes of action). Another was the need for greater coordination among international organisations, to avoid the fragmentation of adaptation activities. Addressing this concern, the secretariat will prepare a technical paper on adaptation activities within the UN system.

Technology: The development and transfer of climate-friendly technology is, of course, an ongoing issue in the climate change regime, with parallel discussions taking place in the SBSTA and SBI. Debates in the AWGLCA, notably at the Bonn workshop, reflected the persistently opposed worldviews of industrialized and developing countries that show no sign of dissipating. A number of developing countries, including AOSIS, Brazil, China, Ghana and India, proposed new multilateral funds to help scale-up technology transfer (e.g. by purchasing technology licenses). Several also proposed new institutional arrangements, with China even suggesting a new subsidiary body on technology, and Bangladesh supporting a technology transfer board and clearing house mechanism. Tax exemptions, subsidies, removal of export bans and public purchasing of intellectual property rights all featured in developing country proposals.

An image of Kivalina (Alaska) illustrates the village's concerns over climate change better than words

Courtesy: Jim Kulas/NDC

This was in stark contrast with the presentations by industrialized countries, especially that of the US, which emphasised instead the role of the private sector and enabling environments in developing countries. The EU, at least, proposed an "enhanced technology transfer frame-

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work" (building on the existing framework), while Japan outlined its bilateral technology cooperation activities. In the view of the US, however, the "bottom line" is the need "to move away from a donor-based paradigm of access and transfer… towards a more self-sustaining process where developing country enabling environments and private capital markets play an increasing role".[3] It is this kind of fundamental split on technology transfer that caused considerable acrimony in Bali (see EPL 38/1), and could still threaten a deal in Copenhagen.

Mitigation: Debates on mitigation were less focussed, with fewer specific proposals on the table. On developed country (principally US) mitigation, the timing of the US election means that any discussion before 2009 is unlikely to bear much fruit. The implicit political linkage with actions by (major) developing country emitters means that the same is probably true for wider provisions on developing country mitigation. The ultra-sensitivity of these topics was clear already at AWGLCA-1 in Bangkok, where disagreement over proposed workshops on the "comparability of efforts" among developed countries (essentially, code for commitments by the US), and measurement, reporting and verification (essentially, code for developing country actions), held up the final plenary until past midnight. In the end, delegates held back any workshops on these topics until 2009, and also deferred the thorny question of whether to hold one single workshop that would link these two issues, or two workshops that would keep them symbolically apart.

With ancient disagreements simmering, the most heated dispute to rise to the surface concerned sectoral action. This was the main source of controversy in Bangkok, triggered by a Japanese proposal. The proposal itself is rather complex,[4] and indeed part of the problem was confusion over what it really meant. In essence, however, the issue concerns whether targets should be set for economic *sectors*, as opposed to *national* targets for the economy in general, as is currently the case under the Kyoto Protocol. Sectoral targets could be defined nationally or, far more controversially, at an international level so that, for example, steel producers in Japan, India and the UK could all be subject to a common efficiency or emission reduction target.

Developing countries reacted to the Japanese proposal with suspicion, fearing that sectoral targets could be used to impose significant new commitments on their industries, and potentially open up new grounds for trade protection. Japan was also accused of seeking to wriggle out of national emission caps under the Kyoto Protocol. In part to placate developing countries, the AWGLCA decided that a proposed workshop on sectoral targets would not take place until AWGLCA-3 (Accra, August 2008).

The political temperature remained high, however, with the interventions of some Parties in the AWGKP in Bangkok, notably Umbrella Group members (e.g. Australia, Japan, New Zealand, Switzerland), implying that sectoral targets could form the basis for cross-over between developed and developing country commitments. Despite subsequent progress in the AWGKP in Bonn (see below), the latest discussions under the AWGLCA revealed little softening in developing country attitudes towards sectoral approaches, notably on the part of China.

This is a case where a premature and rather ill-thought-out proposal risks jeopardizing what could otherwise be a promising approach towards developing country actions. The AWGLCA-3 workshop will have its work cut out to set the issue of sectoral approaches back on a less emotionally charged path.

Shared vision: Discussions on defining a "shared vision" also remained at a general level. Key questions revolve around the issue of how concrete the "shared vision" should be, in particular whether it should include any numerical long-term target, for example, on greenhouse gas (GHG) concentration levels, long term emission reductions or maximum temperature increase. The issue is very sensitive for developing countries in particular, as the corollary of any goal on concentration levels or maximum temperature increase would be a corresponding long-term target for them. The provisional sense emerging from discussions was that, for developing countries, a global long term "aspirational" (*i.e.* non-binding) goal might just about be acceptable, if buttressed by substantial binding emission cuts on the part of developed countries. The EU and the African Group both referred to figures of 25-40% emission cuts in developed countries by 2020, and at least 50% by 2050, with the EU repeating its goal of achieving a long-term maximum temperature rise of 2 degrees C. A workshop on this topic is scheduled for AWGLCA-4, providing an opportunity for more in-depth debate.

AWGKP-5 (parts I and II)

The AWGKP, launched in Montreal in 2005 to decide on the next round of commitments for Annex I Parties under the Kyoto Protocol, is at a more advanced stage in its negotiations. In both Bangkok and Bonn, delegates were focussed on analysing the means of achieving emission reduction targets, such as the market based mechanisms, land use, land-use change and forestry (LULUCF) and sectoral approaches. AWGKP Chair Harald Dovland (Norway) did not attempt, at this stage, to actually resolve contentious and complex matters, with consideration of these issues due to continue, and conclude (although not necessarily in final agreement), in Accra.

Mechanisms: Notwithstanding the AWGKP's limited ambitions, delegates did take a landmark decision already in Bangkok, namely, to agree that the market-based mechanisms under the Kyoto Protocol would continue to be available to countries in the next commitment period. This sent an important signal to the private sector that emissions trading, JI and the CDM are here to stay, and investments based on these market-based mechanisms can safely continue. Delegates also agreed, although not without some debate, that the use of the mechanisms should continue to be "supplemental" to domestic actions.

Many delegations, however, proposed possible changes to the rules for the mechanisms. A key theme was how to adjust the rules of the CDM to reduce red-tape. More far-reaching suggestions include: abandoning the additionality criteria in certain circumstances,

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allowing crediting for emission reductions across sectors (not just individual projects), including carbon capture and storage (CCS), and even revisiting the ban on nuclear energy (supported by, among others, Japan). Several countries, however, notably small island states, cautioned against compromising the environmental integrity of the mechanisms. The AWG conclusions from Bangkok reflect all these concerns, noting that the mechanisms could be "appropriately improved" but, in doing so, due consideration should be given to promoting environmental integrity and sustainable development.

The AWGKP made further progress in Bonn, producing a compilation of views – dubbed a "shopping list" – on possible improvements to the mechanisms, divided between those that would be applied only for the second commitment period, and those that could be implemented already in the first commitment period. The EU, in particular, cautioned against making any significant changes while the current commitment period is ongoing, as this might confuse the emerging carbon market. The proposed enhancements for this commitment period are therefore mostly focussed on enhancing the institutional functioning of the CDM and JI. Developing measures to avoid "perverse incentives" and "unintended consequences" of CDM and JI projects is also listed as a possible improvement. After further work in Accra, these will be forward to CMP-14 in Poznan for possible action.

In terms of changes for the second commitment period, the "shopping list" incorporates some more radical suggestions. In addition to those mentioned above, the list includes proposals to allow linkage with voluntary emission trading schemes in developing countries, and to shift the management functions of the mechanisms away from the climate change secretariat to another organisation altogether. Expanding eligible LULUCF activities also features. At present, and despite the considerable time and energy devoted to negotiating rules for this sector, only 1 CDM project (out of over 1000) involves afforestation or reforestation. The low take-up of LULUCF projects is a particular concern for African countries, where limited industrialization means this is often the only sector where many could realistically participate in the CDM. Only 25 CDM projects are currently located in Africa.

In many ways, the shopping list is more of a "wish list", with several ideas within it mutually incompatible. On the commitment period reserve,[5] for example, there are proposals to increase it, reduce it, and eliminate it altogether. Contradicting plans to expand eligible LULUCF projects, as discussed above, the list also includes a proposal to place a cap on them. Nonetheless, the "shopping list" is useful in at least setting down on paper, in a structured manner, the various ideas on the table. This is always a first step in managing complexity. Discussions will continue in Accra.

LULUCF: Discussions on LULUCF provisions have followed a similar path to those on the mechanisms. In Bangkok, delegates agreed that measures in the LULUCF sector would continue to be available to countries in the next commitment period. Many parties, however, notably from the Umbrella Group, suggested expanding the range of LULUCF activities permitted to Annex I Parties, for example, to include wetland management, devegetation or forest degradation. These countries also proposed adjusting the rules and guidelines governing LULUCF activities for the second commitment period (many of these rules/guidelines specifically apply to the first commitment period only). Others, notably Tuvalu, Brazil, China and India, cautioned against any discontinuity with existing rules, with some suggesting that any relaxation of the rules, or expansion of activities, would have to be accompanied by strengthened emission targets for Annex I Parties. The outcome of negotiations in Bonn was similar to that on the mechanisms, with brief conclusions accompanied by a "shopping list" of options and issues for consideration. Once again, these are more reflective of the range of party views, rather than any emerging consensus, with subheadings of "few changes", "more changes" and "many changes" reflecting the differences in positions.

Sectoral targets: Sectoral approaches were also on the agenda of the AWGKP in Bangkok and Bonn. The general thrust of interventions in Bangkok, from such countries as the EU, Canada, the G-77 and New Zealand, was that sectoral approaches could usefully complement, but not replace, national targets for Annex I Parties. After considerable further discussion in Bonn, where Japan sensed once again the deep concerns surrounding its original proposal (see above), the AWGKP concluded that "approaches targeting sectoral emissions could be used by Annex I Parties as a means to reach, but not replace, their emission reduction targets". This represented significant progress from Bangkok, where there was no consensus over a similar statement.

Many developing countries, however, notably China, continued to fear that sectoral approaches would be used to drag them into the further commitments under the Kyoto Protocol, and questioned the AWGKP's mandate to take up the issue at all. In response, the Chair's summary, annexed to the AWGKP's conclusions, notes that, within the mandate of the AWGKP, sectoral approaches should not lead to new commitments for developing countries, or impose new trade barriers.

Bunker fuels: Having languished in the negotiating doldrums for almost a decade, the issue of bunker fuels is finally receiving the attention its rising emissions deserve. The evolution of the debate was, however, somewhat of a rollercoaster in Bangkok and Bonn. For the first time in many years, delegations in Bangkok were able to take part in a substantive discussion on bunker fuels, in the absence of obstructionist moves on the part of Saudi Arabia and its allies, who were mysteriously missing from the negotiations. Raising the lid on this previously closed topic revealed new players and new positions that have hitherto remained muted. Panama and Singapore – not known for their high-profile in the regime – were active in debates for self-evident reasons, while Tuvalu, usually a consistent voice for strong commitments, urged caution with respect to possible impacts on tourism. Heavy reliance on international transport (highlighted also by Argentina, Australia and New Zealand) may well provide yet another justification for special pleading under the regime.

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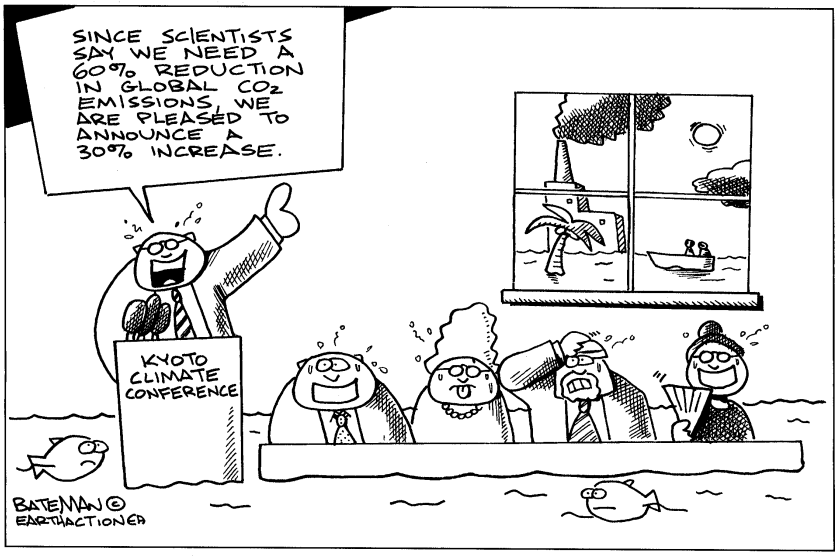
Although substantive debate in Bangkok marked a real breakthrough, it was (almost) back to business as usual in Bonn, with nations from the Organization of Petroleum Exporting Countries (OPEC) resuming their traditional opposition to any concrete action on this sector. Saudi Arabia claimed that any new provisions on bunker fuels would require an amendment to the Kyoto Protocol, which would stall action for years, and then insisted that even the Chair's summary of views on this topic should be placed in square brackets.

Debates on bunker fuels in the SBSTA met a similar (familiar) fate. The International Maritime Organisation (IMO) caused a particular stir when it emerged that a new instrument it is (at last) negotiating on carbon emissions will treat all countries equally, as is the practice under that regime, rather than following the Convention's strict Annex I/non-Annex I division of commitments. This led to the predictable accusation that the issue of bunker fuel emissions would be used to introduce new commitments for developing countries. Faced with the inevitable, further consideration of bunker fuels under the SBSTA was wisely postponed until after Copenhagen.

Nonetheless, even skilful OPEC obstruction could not completely silence the rich debates that have now been unleashed in the AWGKP (probably helped by the absence of the US). The Chair's summary of views lists two options, in addition to the status quo where the International Civil Aviation Organisation (ICAO) and IMO would continue to take the lead (with progress to date virtually nil). The first alternative would see the climate regime agreeing on objectives, which would then be implemented by ICAO/IMO. The second would see the climate regime taking the lead, and ICAO/IMO just supplying technical expertise. The option of raising finance from bunker fuel emissions was noted too (as discussed under the AWGLCA, see above). Although negotiations will be excruciatingly difficult, the momentum behind strengthening action on bunker fuel emissions, perhaps in creative and exciting ways, now appears unstoppable.



Courtesy: EarthAction

Other issues: Other issues taken up by the AWGKP include whether to add new GHGs, identified in the 2008 Fourth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC), to the current basket under the Kyoto Protocol. The groups of gases concerned – including fluorinated ethers and perfluoropolyethers – are mostly emitted as byproducts, or used in the electronics industry. They have very high global warming potentials (GWPs), but are not generally widespread. Including them under the Kyoto Protocol for the second commitment period could help stem their commercial development, although Parties noted the need for coordination with the ozone regime, because some could serve as substitutes for ozone depleting chemicals.

The AWGKP also discussed methodological issues, notably whether to adopt updated GWPs (the ones used under the Kyoto Protocol date from 1996), or even to move to more recently developed global temperature potentials (GTPs). Although Brazil supported this, several other Parties suggested it was premature. Parties must also decide whether to adopt the new IPCC 2006 guidelines for preparing emission inventories for the second commitment period (at present, the revised 1996 guidelines are used). The need to ensure consistency and comparability across reporting periods was a recurring theme.

Review of the Kyoto Protocol

Although the spotlight was on the two AWGs, it was preparations for the second review of the Kyoto Protocol, under the SBI, that was the final issue to be concluded on the last day of negotiations, following all-night informal consultations. Australia and the EU later expressed concern over the transparency of this process.

The second review is to be conducted at CMP-4 in Poznan. Preparatory negotiations in the SBI dealt with several issues closely related to discussions under both AWGs, including improving regional distribution of CDM projects, and the proposed extension of the CDM's "adaptation levy" also to JI and emissions trading. The proposal to generate revenue for adaptation through the auctioning of AAUs, as suggested by Norway, was also on the table. It is this latter proposal that caused the most furore, with some developed countries reluctant to mandate the secretariat to prepare a technical paper on how the proposal might work. There was considerable strength of feeling among some developing countries, however, notably AOSIS and South Africa, that auctioning emission allowances might provide a lucrative, innovative source of financing for adaptation. In the end, delegates simply refrained from specifically mentioning "auctioning", and

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mandated the secretariat to prepare a technical paper on "options related to AAUs" for funding adaptation. The same technical paper will examine the possible extension of the adaptation levy.

REDD and CCS

Two other issues that will be central to negotiations on the Copenhagen deal, but which were not taken up in the AWGLCA because the relevant workshops are scheduled for future sessions, concern reducing emissions from deforestation and forest degradation (REDD) and carbon capture and storage (CCS). Both these issues were, however, addressed in ongoing discussions in the SBSTA. On REDD, delegates were at pains to focus their work on technical and methodological issues, which would not prejudge later negotiations under the AWGLCA. (The AWGLCA workshop on REDD will take place in Accra.) Progress was undoubtedly made, with Parties identifying an unbracketed list of key methodological issues that will, after further elaboration, be forwarded to COP-14 in Poznan.

The same could not be said for CCS, where the SBSTA is discussing its possible inclusion under the CDM. Here, supporters (eg Umbrella Group members, OPEC countries) and opponents (eg Brazil, AOSIS) reiterated their views, with the EU proposing a compromise pilot phase approach. Delegates could not agree on how to proceed, and a proposed roundtable was shelved. The issue will be taken up again in Poznan, including in the last of the AWGLCA workshops (under the diplomatic code "current, new and innovative technology, including win-win solutions").

Looking Ahead

The one issue that united parties in Bonn was concern over the intensive agenda leading up to Copenhagen: two further negotiating sessions are planned for 2008, and at least four for 2009, in addition to intersessional expert groups, workshops, board meetings and consultations. Concern over the possible "human impacts" left some delegates clamouring for a more "family friendly" process. This clamour was sufficiently loud for the SBI to recommend that, where possible, sessions in 2009 will be held mid-week to mid-week, to limit the amount of weekends delegates must spend away from home. Future scheduling of meetings will also seek to avoid consecutive three-week blocks.

Nonetheless, the 18 months to come will test the climate change regime, and its delegates, to the maximum.

The problem, of course, is that the workload is unlikely to slacken very much post-Copenhagen. Any deal struck in Copenhagen will almost certainly establish a couple of new bodies (viz. the many institutional proposals put forward in the AWGLCA). There will also be rules and guidelines to draft, outstanding issues to clear up, perhaps even a new round of talks launched. One could be forgiven for asking where all this might lead – perhaps with the evolution of the climate change regime into a set of standing bodies, with full-time resident negotiators? Although delegates would not yet admit as much, the sheer volume of work and growing institutional density of the climate change regime suggests an inexorable march towards a future permanent "international climate change organisation".

Notes

1 Earth Negotiations Bulletin (2008a), SB28 and AWG Highlights: Tuesday, 10 June 2009. Vol. 12 No. 372.

2 Earth Negotiations Bulletin (2008b), Twenty-eighth sessions of the UNFCCC subsidiary bodies, second session of the ad hoc Working Group under the Convention, and fifth session of the Ad Hoc Working Group under the Kyoto Protocol: 2–13 June 2008. Vol. 12 No. 375. p. 17–19.

3 Technology: Presentation by the United States of America. Bonn, Germany, 3 June 2008. Available at http://unfccc.int/meetings/ad_hoc_working_groups/lca/items/4423.php.

4 See FCCC/AWGLCA/2008/MISC.1/Add.1.

5 Parties participating in emissions trading must keep a certain proportion of their assigned amount as a "commitment period reserve" that cannot be traded. For most parties, this is 90% of their assigned amounts.

Courtesy: Museum König

Ozarba algaini Wiltshire

In appreciation of his pioneering and successful activity in conservation, Fauna of Saudi Arabia (in collaboration with E.P. Wiltshire) named this new species of Noctuidae in honour of the late Abdulbar Al-Gain, former Vice-President of the Environmental Administration of Saudi Arabia and Executive Governor of ICEL from 1983–2000. A photograph of him was featured on the cover of *EPL*, Volume 30, Number 4.

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ESPOO / 4th MOP

Bucharest Agreement Signed

by Wiek Schrage*

Environment ministers and high-level representatives from seven countries of South-Eastern Europe adopted and signed an Agreement in Bucharest on 20 May, during the fourth meeting of the Parties to the United Nations Economic Commission for Europe (UNECE) Convention on Environmental Impact Assessment in a Transboundary Context (also referred to as the Espoo Convention) that will provide for further implementation of the Convention. The seven countries that adopted and signed the Agreement are Bulgaria, Croatia, Greece, Montenegro, Romania, Serbia and The Former Yugoslav Republic of Macedonia.

The Bucharest Agreement includes detailed provisions for consultations between the South-East European countries concerning all major projects under consideration that might have an adverse transboundary environmental impact. The Agreement details appropriate means for providing information to authorities and the public, as well as opportunities to comment for both the countries and the public affected by the transboundary impact. The Agreement is understood to be a political commitment to implement environmental impact assessment in a transboundary context and can be implemented by all the countries in the region.

Bosnia and Herzegovina may join the Agreement later. Of the seven countries which signed the Agreement, Serbia is the most recent Party to the Espoo Convention, having acceded on 18 December 2007. Montenegro expects to become a Party to the Convention by the end of 2008.

The Espoo Convention requires that member States notify and consult each other on all projects that might have an adverse transboundary environmental impact. According to this, in July 2006, a scientific group of experts set up under the Convention concluded that the so-called Bystroe Canal Project (the Danube-Black Sea Deep-water Navigation Canal in the Ukrainian sector of the Danube Delta) would have "significant adverse transboundary effects" on the environment and that the provisions of the Convention should be applied. The first phase of the Project, aimed at boosting the local economy, was completed in August 2004. The final decision on the second phase was taken recently.

During the Meeting of the Parties, the delegation of Ukraine committed itself to reconsider its decision to fully implement the Bystroe Canal Project and also stated that it would not commence work on the second phase until its obligations under the Convention were fulfilled.

Common pelican in the delta

Courtesy: GreenPacks

In a letter from Deputy Prime Minister, Marek Belka to the Executive Secretary, Ukraine furthermore announced that it would fully comply with the provisions of the Convention for other projects with a likely transboundary impact on the environment of the Danube Delta, such as a planned hydropower station on the border with Moldova.

On 21 May, the Meeting of the Parties took a decision stating that Ukraine had been in non-compliance with its obligations under the Convention and asked Ukraine to take a series of steps up to the end of 2009 to bring about compliance.

Much of the national and international controversy surrounding this project arises from its location in the second largest delta in Europe (after the Volga). The Danube Delta, spanning the border between Romania and Ukraine, includes UNESCO Biosphere Reserves and a World Natural Heritage site. It is a wetland rich in plants (over 1,000 species), birds (300 species, including the largest pelican colony in Europe) and fish (including several endangered species of sturgeon).

* Secretary to the EIA Convention.

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