

## UNITED NATIONS ACTIVITIES

## UNICPOLOS

**Oceans and the Law of the Sea  
– Report of the UN Secretary-General –**

by Elsa Tsioumani\*

The report of the UN Secretary-General on oceans and the law of the sea, prepared for consideration by the UN General Assembly at its sixty-third session, was recently made available and served as the basis for discussion at the ninth meeting of the UN Open-ended Informal Consultative Process on Oceans and the Law of the Sea (23–27 June 2008, UN Headquarters, New York).<sup>1</sup> The report includes several chapters focusing on environmental issues, including maritime security and safety, conservation and management of marine fishery resources, marine biological diversity, protection and preservation of the marine environment and sustainable development, and climate change. This article provides a brief summary of the report.

**Maritime Security and Safety**

Preserving and enhancing maritime security and safety in the oceans and seas have become paramount concerns, as oceans and seas are of vital importance for transportation, livelihoods, food and a range of other ecosystem goods and services. The report stresses that, although the legal regimes for maritime security and maritime safety have developed independently of one another, they have common and mutually reinforcing objectives. It provides an overview of the legal regime in the UN Charter and the UN Convention on the Law of the Sea (UNCLOS) for maritime security, describes the measures taken to address specific threats and highlights current challenges. It also provides an overview of the relevant international legal framework for maritime safety, and highlights recent developments and current challenges.

On maritime security, the report notes the potential important implications of climate change and highlights that overexploitation of fishery resources remains a major challenge to achieving sustainable fisheries, contributing thus to food insecurity around the world. Recognising that one of the main causes of overfishing is illegal, unreported and unregulated (IUU) fishing, the report provides an overview of existing international instruments addressing IUU fishing. The report further highlights that breaches of environmental laws and regulations can threaten maritime security in a variety of ways and the effects of such breaches can manifest themselves in many forms, including as loss of marine habitats, loss of species and reduced

fish catch, coral bleaching and decreased biodiversity, impacting thus directly the social and economic interests of coastal States and fuelling conflict; and overviews international instruments providing for the protection and preservation of the marine environment and its biodiversity. Current challenges in maritime security include: enhancing the effectiveness of the international legal framework; strengthening the implementation of maritime security measures; capacity building; and cooperation and coordination. Measures to improve maritime security can have economic, humanitarian and environmental impacts. The marine environment may be affected in a variety of ways: the use of acoustic devices and techniques to detect, trace and monitor vessels may create disturbances in the marine environment and have an adverse impact on marine living resources; the testing of military and other safety and security devices at or beneath the ocean surface as well as the unsafe disposal of warships are also identified as causes for concern.

Maritime safety is principally concerned with ensuring safety of life at sea, safety of navigation and the protection and preservation of the marine environment. The report provides an overview of the international legal framework and highlights current challenges in maritime safety, most of which are mentioned above as also relevant to maritime security.

**Conservation and Management of Marine Fishery Resources**

The report stresses that improving fisheries governance remains a fundamental global challenge, as overfishing, IUU fishing and destructive fishing practices continue in many regions and are a source of concern in the fishing industry and for the international community. There are several instruments encouraging responsible fisheries and aiming to enhance compliance with international conservation and management measures, but lack of, or insufficient implementation has diminished their effectiveness in improving fisheries governance and sustainable management of fish stocks. Consequently, a number of new initiatives are being put forward by States and Regional Fisheries Management Organizations (RFMOs) to ensure effective compliance by fishing vessels with international conservation and management measures. The report outlines developments with regard to the assessment of flag States' performance; port State

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measures; environmental impact assessment of fishing activities; and implementation of trade-related measures by RFMOs.

### Marine Biological Diversity

The report notes that the rate of marine biodiversity loss continues to be a matter of concern to the international community, also in the light of the relevant targets established by the World Summit on Sustainable Development. It provides an overview of recent measures to address activities and pressures on marine biological diversity, including recommendations by the Subsidiary Body on Scientific, Technical and Technological Advice to the Convention on Biological Diversity; initiatives regarding specific ecosystems, including coral reefs and deep-sea ecosystems; measures for specific species, including



Sunset over the Pacific Ocean as seen from the International Space Station

Courtesy: NASA

cetaceans and other migratory species; and developments regarding marine genetic resources.

### Protection and Preservation of the Marine Environment and Sustainable Development

The report highlights that ocean resources and uses are fundamental to human well-being and development, including food security, health, transportation, production of energy and resource extraction. Sustainable development of oceans and seas is therefore essential to ensure long-term human prosperity. It is noted that, while States have the primary responsibility to ensure effective development and implementation of the applicable regime, industry also has an important role in international efforts to address marine environmental issues and sustainable development. The role of civil society is also acknowledged.

It is stressed that 80% of the pollution load in the oceans originates from land-based activities, while the marine en-

vironment is also threatened by physical alterations to the coastal zone, including the destruction of habitats vitally important for maintaining ecosystem health. The report provides an overview of UN activities related to pollution from land-based activities. With regard to the degradation of the marine environment resulting from shipping activities, the report outlines developments with regard to prevention and control, and liability and compensation. It then highlights the concerns regarding the potential threat posed by ocean noise to the marine environment, which are being addressed by a number of international forums. With regard to waste management, the report provides an overview of developments related to carbon sequestration, the transboundary movement of CO<sub>2</sub> streams, and iron fertilisation of oceans, addressed in the framework of the 1992 London Convention on the Prevention of Marine

Pollution by Dumping of Wastes and Other Matter. With regard to area-based management tools, the report addresses developments related to marine protected areas, fisheries closures, biosphere reserves, special areas and particularly sensitive sea areas. Finally, the report overviews the activities of the UNEP Regional Seas Programme, which provides the overarching framework for cooperation among regional seas, providing information on major developments within each regional sea programme, as well as relevant activities undertaken by other regional entities.

### Climate Change

The report acknowledges that oceans play a fundamental role in the climate system, as ocean-climate coupling regulates and mitigates the exchange of heat, carbon and water within the Earth's systems. Climate change will affect the physical parameters of the oceans, such as temperature, strength of currents and chemistry, and these impacts are becoming increasingly evident. Recent studies indicate that, while atmospheric CO<sub>2</sub> is increasing, the ability of the oceans to absorb it may be decreasing. The report focuses on recent developments relating to the Intergovernmental Panel on Climate Change (IPCC), the Bali Climate Change Conference, and a number of other international developments of relevance.

### Note

<sup>1</sup> The report is available, after formally logging into the UN documents website (go to [www.un.org](http://www.un.org), then click "documents" then ODS), at: <http://daccessdds.un.org/doc/UNDOC/GEN/N08/266/26/PDF/N0826626.pdf?OpenElement>.



# Consultations on Maritime Security and Safety

by Ximena Hinrichs Oyarce\*

## Introduction

The ninth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (UNICPOLOS) was held in New York from 23 to 27 June 2008. The meeting devoted its consultations to the topic of maritime security and safety, and was co-chaired by Ambassador Paul Badji of Senegal and Ms Lorraine Ridgeway of Canada. The Secretary-Generals' report on oceans and the law of the sea, which contains an ample chapter on the matter, provided the basis for discussion.<sup>1</sup> A number of issues relating to the topic were addressed in panel discussions and, by the end of the meeting, delegations agreed by consensus on a number of elements concerning maritime security and safety to be suggested to the General Assembly for its consideration under the agenda item "Oceans and the law of the sea".<sup>2</sup>

## Background

Maritime security deals with the mechanisms to protect ships and their crews against acts of violence at sea, in particular, "direct threats to the territorial integrity of a State, such as an armed attack from a military vessel".<sup>3</sup> However, according to wider definitions, this term would also refer to crimes at sea, *e.g.*, piracy and armed robbery against ships, as well as terrorist acts.<sup>4</sup> The international legal regime for maritime security is given by a number of international instruments operating within the framework of the Charter of the United Nations and the 1982 United Nations Convention on the Law of the Sea (UNCLOS).<sup>5</sup> UNCLOS contains rules regarding piracy (articles 101), the prohibition of the transport of slaves (article 99), drug-trafficking (article 108), and unauthorised broadcasting from the high seas (article 109).

On the other hand, maritime safety is concerned with ensuring safety of life at sea and safety of navigation. The global regime is provided in UNCLOS, which establishes the rights and duties of States in respect of maritime safety.<sup>6</sup> In particular, UNCLOS requires flag States to adopt measures concerning the construction, equipment and seaworthiness of ships, the manning of ships, as well as the use of signals, the maintenance of communications and the prevention of collision.<sup>7</sup> International maritime safety standards are contained in various instruments particularly those developed within the auspices of the International Maritime Organization (IMO).

## Areas of Concern

During the meeting, a number of panel discussions provided an opportunity to focus on various areas of concern, such as piracy and armed robbery against ships; the prevention and suppression of international organised crime such as drug-trafficking and smuggling of migrants;

safety and security issues confronting seafarers and treatment of persons rescued at sea; and the enhancement of cooperation and development of capacity building. The issues were addressed by several speakers in panel presentations, and followed by discussions in plenary.

An important issue which emerged during the debate concerned the definition of the term "maritime security". It was controversial whether a broad range of issues under the concept of human security could be regarded as maritime security issues (*e.g.*, poverty, infectious disease and environmental degradation, internal conflicts, the spread and possible use of biological, chemical or nuclear weapons, terrorism, and international organised crime).<sup>8</sup> There was also a divergence of views as to whether illegal fishing constituted a maritime security issue.

A major issue of contention was the suggestion of a link between IUU fishing and international organised crime. Some delegations stated that illegal fishing constituted a real security threat to their countries while others insisted that not all IUU fishing contravened international law. A potential link was also seen by some delegations between intentional and unlawful damage to the marine environment and international organised crime, as such pollution could also constitute a threat to maritime security. In this connection, a number of delegations referred to the environmental and economic impacts on coastal States of maritime accidents relating to the transport of radioactive materials.

Emphasis was given during the meeting to the topic of piracy and armed robbery against ships as these acts continue to threaten the security of navigation and that of seafarers. The distinction between these terms is to be underlined. Piracy is an illegal act of violence, detention or depredation committed for private ends in an area outside the jurisdiction of any State.<sup>9</sup> Armed robbery refers to illegal acts of violence against ships, which take place in the maritime zones within the sovereignty of a coastal state. The meeting agreed that the full cooperation of States is needed to repress piracy. As to armed robbery, coastal States were called upon to exercise effective control over their territorial waters. During the meeting, it was observed that acts of piracy and armed robbery had declined in recent years but that the level of violence and incidents of hostage-taking had risen. In particular, it was reported that acts of piracy in the Straits of Malacca had decreased significantly, and the role of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia was highlighted as contributing to this decrease.

## Agreed Consensual Elements

Following consideration of the elements proposed by the Co-Chairpersons, the meeting agreed by consensus to put forward various issues to the General Assembly relating to maritime security and safety. The agreed text rec-

\* Legal Officer, International Tribunal for the Law of the Sea. The opinions contained in this article are expressed by the author in her personal capacity and do not reflect the views of the Tribunal.

ognises that maritime security and safety is essential to the role of oceans and seas in promoting the economic, social and environmental pillars of sustainable development. It reiterates that the legal regime for maritime security and safety consists of international instruments, operating within the framework of the Charter of the United Nations and UNCLOS, and that several international organisations play an important role in this regard particularly the IMO. The agreed text also underlines the responsibility of flag, port and coastal States for ensuring the effective implementation and enforcement of international instruments relating to maritime security and safety while underlining the primary obligations of flag States on the matter.

The important role of the human element in promoting maritime safety and security is also underlined in the agreed text, which proposes that the General Assembly invite all States to become parties to the ILO Maritime Labour Convention (2006) and support ongoing work concerning the safety of fishers and fishing vessels. The text recognises the provision of assistance to persons in distress at sea as a fundamental international legal obligation that must continue to be observed and also welcomes the ongoing work of the IMO in relation to disembarkation of persons rescued at sea as well as the establishment of search and rescue facilities.

The text emphasises that all actions to combat threats to maritime security must be in accordance with international law including UNCLOS. With regard to piracy and armed robbery, it highlights the importance of prompt reporting of such incidents. While expressing concern

regarding the problems of piracy and armed robbery, the text notes recent efforts by the UN Security Council to address this particular problem off the coast of Somalia.<sup>10</sup> As regards international organised crime, it recognises that illegal fishing poses a threat to the economic, social and environmental pillars of sustainable development and acknowledges that in some countries' experience, these illegal activities were found to be run by international organised crime rings.

With specific reference to maritime safety, it was recognised that the safety standards adopted by the IMO have led to a significant reduction of maritime accidents and pollution incidents. The text acknowledges the potential environmental and economic impacts of maritime accidents on coastal States during the transport of radioactive materials, and highlights the importance of effective liability regimes in this respect.

### Notes

- 1 See Oceans and the law of the sea: Report of the Secretary-General, UN document A/63/63, in particular, chapter V thereof.
- 2 An advance and unedited text of the report of the ninth meeting of UNICPOLOS is available at [http://www.un.org/Depts/los/consultative\\_process/documents/icp9\\_advance\\_unedited.pdf](http://www.un.org/Depts/los/consultative_process/documents/icp9_advance_unedited.pdf).
- 3 See UN document A/63/63, paragraph 39, at p. 15.
- 4 See UN document A/63/63, paragraph 39, at p. 15.
- 5 See UN document A/63/63, paragraph 43, at p. 16.
- 6 See UN document A/63/63, paragraph 161, at p. 44.
- 7 See article 94, paragraph 3, of UNCLOS.
- 8 For this broad list of issues, see UN document A/63/63, paragraph 40, at p. 15.
- 9 See article 101 of UNCLOS.
- 10 See Resolution 1816 (2008), adopted by the Security Council at its 5902nd meeting on 2 June 2008, UN document S/RES/1816 (2008).



## CBD / COP-9

# The Convention on Biological Diversity at a Crossroads – Where Do We Go From Here? –

by Elsa Tsioumani\*

From 19 to 30 May 2008, more than 5,000 representatives from governments, international organisations, NGOs, indigenous organisations, academia and industry gathered in Bonn, Germany, for the ninth Conference of the Parties to the Convention on Biological Diversity (CBD COP 9). The meeting addressed a broad agenda, ranging from the review of several CBD programmes of work on ecosystems and cross-cutting issues, to strategic, administrative and budgetary matters.<sup>1</sup> Among the issues that dominated discussions were: access and benefit sharing (ABS); marine and coastal biodiversity; agricultural biodiversity and biofuels; biodiversity and climate change; forest biodiversity; and financial resources and the financial mechanism.<sup>2</sup>

COP 9 achievements include adoption of a roadmap for the negotiation of an international ABS regime, ensuring that three ABS Working Group and three expert group meetings will take place before the 2010 deadline for completion of negotiations. The adoption of the first-ever Resource Mobilization Strategy for the Convention was also hailed as a major step towards improved implementation. Agreement on scientific criteria and guidance for marine areas in need of protection was considered to be an important step towards conservation of marine ecosystems and achievement of the 2012 target to establish a representative network of marine protected areas.<sup>3</sup> Finally, the adoption of a decision cautioning against ocean fertilisation, interpreted by many participants as a *de facto* moratorium, was considered a significant contribution of the Convention in the climate change debate. Also related

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to climate change, the issue of genetically modified (GM) trees was taken up during discussions on forest biodiversity: the COP reaffirmed the need for a precautionary approach and called on parties to authorise the release of GM trees only after completion of studies in containment, as well as science-based and transparent risk assessments. This decision was criticised as insufficient by several parties and observers who called for a moratorium on GM trees. On biofuels, there was no agreement on sustainability criteria of any kind, but the decision did call on Parties to ensure sustainable production and consumption, consult with indigenous and local communities, and minimise impacts on biodiversity and food production.

A number of other meetings of note were held alongside the negotiations. The meeting's high-level segment was held from 28–30 May 2008, under the chairmanship of COP 9's President Sigmar Gabriel, Federal Minister for the Environment, Nature Conservation and Nuclear Safety of Germany.<sup>4</sup> Officially launched during the high-level segment, the LifeWeb Initiative, a global, voluntary initiative on protected areas led by Germany, is aiming to match voluntary commitments for the designation of new protected areas and the improved management of existing ones with commitments for dedicated financing of these areas. Many countries stated they would participate in the scheme by designating new areas, and pledges were made by Germany and Norway. Still on the funding front, Germany's Chancellor Angela Merkel specifically announced that the German government would make additional funding of 500 million Euros available between 2009 and 2012, in order to conserve forests and other ecosystems, while from 2013, Germany would make a long-term commitment of half a billion Euros per year for the international conservation of rainforests and other endangered ecosystems.

Also presented at the high-level segment, the long-awaited preliminary findings of the interim report on the economics of ecosystems and biodiversity<sup>5</sup> demonstrated the significance of ecosystems and biodiversity, and the threats to human welfare if no action was taken to reverse current damage and losses. While the final results are to be presented at CBD COP 10, this study, inspired by the momentum created by the *Stern Review of the Economics of Climate Change*, has initiated the process of analysing the global economic benefit of biodiversity, the costs of its loss and the failure to take protective measures versus the costs of effective conservation.

According to the CBD Executive Secretary Ahmed Djoghlaif "the Bonn Biodiversity meeting will be remembered for initiating a new era in implementation of the Convention on Biological Diversity". Djoghlaif went on to say that "less than two years from 2010, the year that Heads of State and Government determined to be the tar-

get for substantially reducing the rate of loss of biodiversity ... these agreements – the Bonn Biodiversity Compact – if implemented expeditiously by all stakeholders, will go a long way to help us meet our goals".<sup>6</sup> This article seeks to analyse and evaluate the achievements of CBD COP 9 in the framework of achieving the 2010 biodiversity target, identify its shortcomings, and highlight challenges on the road to Nagoya, Japan, where the crucial CBD COP 10 will be held, in October 2010.

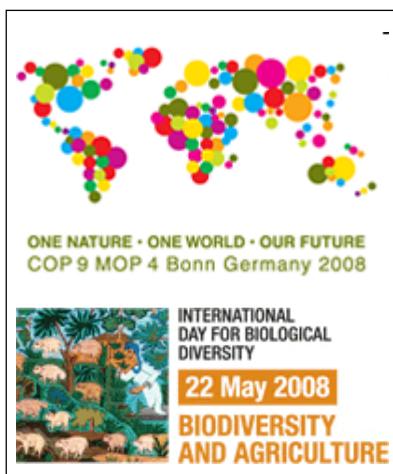
### The Context: Biodiversity Loss and the Convention on Biological Diversity

In the early 1980s, worldwide concern over the rate of biodiversity loss intensified as a result of growing scientific consensus on the matter. IUCN catalysed efforts towards developing an international agreement to conserve biodiversity by requesting its General Assembly to produce a preliminary draft of a global agreement on biodiversity. The work of IUCN and subsequently UNEP was instrumental in drawing attention to the issue of conserving biological diversity and providing institutional backing for the development of a new agreement. An International Negotiating Committee was established in 1991, which concluded negotiations in time for the Earth Summit in Rio de Janeiro, in June 1992.<sup>7</sup>

The CBD was opened for signature at the Earth Summit and entered into force on 29 December 1993.

With almost universal membership (191 Parties to date),<sup>8</sup> the Convention is a legally binding instrument aiming to promote the conservation of biodiversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising out of the use of genetic resources. It is therefore not only a conservation treaty in the strict sense of the term, but also integrates sustainable development and equity considerations. A landmark in international law, the Convention recognises for the first time that biodiversity conservation is a common concern of humankind and an integral part of the development process. Establishing the principle of national sovereignty over natural resources, it is an umbrella convention covering all

ecosystems, species and genetic resources, further addressing the fields of biotechnology and biosafety. The Convention has already worked on a number of thematic work programmes, including biodiversity of marine and coastal, agricultural, forest, island, inland water, dry and sub-humid land, and mountain ecosystems. It has also addressed several cross-cutting issues, such as ABS, alien species, Article 8(j) (traditional knowledge), and protected areas. The adoption of the target "to achieve by 2010 a significant reduction of the current rate of biodiversity loss" by COP 6 in 2002 was a significant moment in the history of the Convention. This was preceded by the 2001 EU commitment to halt biodiversity decline by 2010. The CBD 2010 biodiversity target was later endorsed by the



2002 World Summit on Sustainable Development, and reinforced by its full integration into the framework of the Millennium Development Goals in 2007.

Some of the work programmes adopted in the CBD framework are impressive in concept, including the ones on marine and coastal, and agricultural biodiversity, while others, like the work programmes on protected areas and on Article 8(j), are extremely progressive in building in elements of democratic governance and equity.<sup>9</sup> The CBD has already created the framework and tools to catalyse action at the regional, national and local level to address biodiversity loss and promote sustainable development. Nevertheless, less than two years before the 2010 deadline, biodiversity loss continues at an unprecedented rate. According to the 2005 Millennium Ecosystem Assessment (MA), for all aspects of biodiversity, the current pace of change and loss is hundreds of times faster than previously in recorded history, and the pace shows no indication of slowing down. Virtually all of Earth's ecosystems have been dramatically transformed through human actions; conversion of ecosystems for agricultural and other uses has continued at a constant pace over at least the last century; within well-studied species groups, between 12% and 52% are threatened with extinction; while intensification of agriculture and globalisation have led to a substantial reduction in the genetic diversity of domesticated plants and animals. The reasons to reverse biodiversity loss extend well beyond ethics. As the MA has illustrated, biodiversity and the many ecosystem services that it provides are a key factor determining human well-being. Biodiversity loss has negative effects on several factors, such as food and energy security, health and access to water, while it is linked to vulnerability to natural disasters and increased poverty.

In conclusion, current trends indicate a continuing loss of biodiversity, due to land-use change, climate change, invasive species, overexploitation and pollution.<sup>10</sup> These result from demographic, economic, socio-political, cultural, technological, and other indirect drivers. With this in mind, it is clear that much more is needed than pure conservation efforts. Still, the CBD goes far beyond conservation: implementation of its three objectives – conservation and sustainable use of biodiversity, and fair and equitable sharing of benefits arising from the use of genetic resources – provides the framework to reverse this catastrophic trend.

### **The Third Objective: Deliberations on Access and Benefit Sharing at COP 9**

Implementation of the Convention's third objective, fair and equitable sharing of benefits, has been one of its slowest developing elements. Coupled since the early days with the issue of access to genetic resources, the ABS concept requires users of genetic resources to share the benefits that they receive from the utilisation of these resources with the country of origin of those genetic resources. The benefits to be shared include research results, commercial profits and other benefits.<sup>11</sup>

ABS has been a high priority for developing country Parties, who have experienced unauthorised approp-

riation of their genetic resources, often without the consent of government or the indigenous people traditionally using the resource. As technological breakthroughs including biotechnology and its applications can increase considerably the instrumental value of biodiversity, countries rich in biodiversity have realised that they could profit substantially in financial terms from their genetic resources.

A milestone in the Convention's work on ABS has been the adoption by COP 6 of the non-binding Bonn Guidelines on ABS. Nevertheless, the instrument was viewed as insufficient by several Parties, mostly developing countries. Furthermore, few countries have adopted national legislation to comply with Article 15 of the Convention which specifies commitments on ABS, and the Bonn Guidelines did not seem to provide inspiration for further development of national legislation on this matter.

Since the 2002 World Summit on Sustainable Development, which called for negotiation, within the CBD framework, of an international regime to promote and safeguard the fair and equitable sharing of benefits arising out of the use of genetic resources, the Convention's work on ABS has been focusing on the negotiation and elaboration of an international ABS regime. In 2006, CBD COP 8 appointed Fernando Casas (Colombia) and Timothy Hodges (Canada) Co-Chairs of the ABS Working Group, and instructed the Group to complete its work with regard to the international ABS regime at the earliest possible time before COP 10, to be held in 2010.

After the success of the sixth meeting of the ABS Working Group (January 2008, Geneva, Switzerland), where delegates made substantive progress on a concise document to serve as the basis for further negotiations,<sup>12</sup> and with the 2010 deadline rapidly approaching, ABS was the focus of sustained attention throughout the meeting of the COP. A group running in parallel with the two main working groups of the session, called an "informal consultative group", was rapidly established. Co-chaired by the ABS Working Group Co-Chairs Fernando Casas and Timothy Hodges, this arrangement made it possible for the ABS negotiators to work undistracted, although several small delegations were obliged to miss these developments as they prioritised other issues. In addition, smaller groups convened to elaborate the terms of reference for proposed intersessional groups of legal and technical experts and to address substantive components of the international regime.

The outcome was considered largely a success: although not much progress was achieved on substance, a roadmap providing for three intersessional Working Group meetings and three additional expert groups ensures that ABS negotiators have enough time and input to finalise negotiations on time. In addition, the decision included a reference, for the first time, that the regime should contain at least some legally binding elements. Decision text instructs the ABS Working Group "after the negotiation of comprehensive operational text at its seventh meeting, to start its eighth meeting by negotiating on nature, followed by clearly identifying the components of the international regime that should be addressed through legally

binding measures, non-legally binding measures or a mix of the two and to draft these provisions accordingly". It remains to be seen whether there will be delegations that will "clearly identify" that no component should be addressed through legally binding measures, particularly in view of another decision clause, instructing the Working Group to submit for consideration and adoption by COP 10 an instrument/instruments to effectively implement CBD Articles 15 (Access to Genetic Resources) and 8(j) (traditional knowledge), "without in any way prejudging or precluding any outcome regarding the nature of such instrument/instruments".

To that end, the ABS Working Group will meet three times, for seven consecutive days each time, while three expert groups will address compliance; concepts, terms,



ABS WG: Co-Chairs Fernando Casas (Colombia) (right), Timothy Hodges (Canada) (centre) Courtesy: IISD

working definitions and sectoral approaches; and traditional knowledge.

### In the Sea: Criteria and Guidance for Marine Protected Areas

Following years of debate on the CBD mandate regarding marine biodiversity within and beyond national jurisdiction, CBD Parties agreed that the CBD "has a key role in supporting the work of the General Assembly with regard to marine protected areas beyond national jurisdiction, by focusing on the provision of scientific and, as appropriate, technical information and advice relating to marine biological diversity, the application of the ecosystem approach and the precautionary approach, and in delivering the 2010 target".<sup>13</sup> To that regard, the Convention's Subsidiary Body on Scientific, Technical and Technological Advice initiated work on a list of scientific criteria and guidance for the identification of marine protected areas, but did not reach agreement on their adoption. Its recommendation to the COP included bracketed language, particularly with regard to application of the criteria and guidance in open waters and the deep sea.<sup>14</sup>

To the delight of most Parties and NGOs alike, disagreements were resolved during the COP and the "scientific criteria for identifying ecologically or biologically significant marine areas in need of protection in open-ocean waters and deep-sea habitats" as well as the "scientific guidance for selecting areas to establish a representative network of marine protected areas, including in open-ocean waters and deep-sea habitats" were adopted. Being one of the few concrete and substantive outcomes of this COP of direct relevance to the 2010 target, the list of criteria includes: uniqueness or rarity; special importance for life-history stages of species; importance for threatened,

endangered or declining species and/or habitats; vulnerability, fragility, sensitivity or slow recovery; biological productivity; biological diversity; and naturalness. Similarly, the guidance addresses required properties and components including: ecologically and biologically significant areas; representativity; connectivity; replicated ecological features; and adequate and viable sites.

### Deep in the Sea and up in the Air: Ocean Fertilisation

Ocean fertilisation, the introduction of iron to the ocean to increase the marine food chain by encouraging the growth of marine phytoplankton, and to sequester carbon dioxide from the atmosphere, has been proposed as a climate change mitigation measure. However, due to scientific uncertainties and high risks for marine ecosystems, the idea has already received the criticism of the Parties to the 1972 London Convention on the Prevention of Marine Pollution: in June 2007, the twenty-ninth Consultative Meeting of the Contracting Parties took the view that, given the present state of knowledge regarding ocean fertilisation, large-scale operations are

currently not justified, and urged States to "use the utmost caution" when considering proposals for large-scale ocean fertilisation operations.

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In the same line, and in the framework of the decision on biodiversity and climate change,<sup>15</sup> the CBD COP cautioned against ocean fertilisation although ministerial consultations were needed to reach agreement on specific language: finally, the COP "requests Parties, in accordance with the precautionary approach, to ensure that ocean fertilization activities do not take place until there is an adequate scientific basis on which to justify such activities, including assessing associated risks, and a global, transparent and effective control and regulatory mechanism is in place for these activities; with the exception of small-scale scientific research studies within coastal waters. Such studies should only be authorized if justified by the need to gather specific scientific data, and should also be subject to a thorough prior assessment of the potential impacts of the research studies on the marine environment, and be strictly controlled, and not be used for generating and selling carbon offsets or any other commercial purposes".

Although the decision lists small-scale scientific research studies as an exemption to the general prohibition, this exemption is so narrowly defined that the decision was interpreted as implying a *de facto* moratorium. This interpretation was supported not only by NGOs<sup>16</sup> but also by a number of Parties, including Ecuador during the meeting's closing plenary.

### And on Land: Biofuels and GM Trees

Climate change considerations were also the drive behind two of the most controversial items discussed during the COP: biofuels and GM trees.

The relationship between biofuels and biodiversity, a new issue in the CBD context, attracted much discussion throughout the meeting, and agreement was finally reached following ministerial consultations. The Secretariat background document on the issue<sup>17</sup> concluded that an examination of the impacts of biofuel production and use on biodiversity would need to examine each biofuel system on its own merits and against sustainability criteria. Still, it was acknowledged that there appears to be no clear scientific justification, either from a climate change mitigation or biodiversity perspective, for broad-scale policies that promote biofuel production, such as production subsidies, import tariffs or minimum requirements for the use of biofuels in transport fuels. Rather, policies, subsidies and tax incentives would need to be selective for each biofuel system so that only environmentally and socio-economically sound biofuels are promoted. Criteria, standards and certification could be developed to help identify and promote biodiversity-friendly biofuels.

Positions during the meeting were significantly varied and a compromise was sought among Parties calling for a moratorium to new biofuel production, such as the African Group; those pushing for a certification process and sustainability criteria, mainly the EU; and biofuel-producer Brazil who considered any certification a trade barrier. At the end, the compromise included a number of terms outlining countries' obligations to ensure sustainable production and consumption, consult with indigenous and local communities, and minimise impacts on biodiversity and food production. More specifically, in the adopted decision,<sup>18</sup> the COP recognises the need to promote the positive and minimise the negative impacts of biofuel production and its use on biodiversity and the livelihoods of indigenous and local communities, and urges Parties to: promote the sustainable production and use of biofuels with a view to promote benefits and minimise risks to the conservation and sustainable use of biodiversity; promote the positive and minimise the negative impacts on biodiversity that would affect socio-economic conditions and food and energy security resulting from the production and use of biofuels; and develop and apply sound policy frameworks for the sustainable production and use of biofuels, acknowledging different national conditions.

Similarly, despite the calls for a moratorium on the release of GM trees, the agreed language reflects the compromise reached in ministerial consultations. The decision on forest biodiversity<sup>19</sup> urges parties to: reaffirm the need to take a precautionary approach when addressing the issue of GM trees; authorise their release only after completion of studies in containment addressing long-term effects, as well as thorough, comprehensive, science-based and transparent risk assessments to avoid possible negative environmental impacts on forest biological diversity; consider the potential socio-economic impacts of GM trees as well as their potential impact on the livelihoods of indigenous and local communities; and further engage to develop risk-assessment criteria specifically for GM trees. The COP also acknowledges the entitlement of Parties, in accordance with their domestic legislation, to suspend the

release of GM trees, in particular where risk assessment so advises or where adequate capacity to undertake such assessment is not available.

### **The Resource Mobilization Strategy: The Missing Link?**

The lack of financial resources has been consistently highlighted at COP meetings as a serious obstacle to the implementation of the Convention at the national level, towards the achievement of the Convention's objectives and the 2010 biodiversity target. Apart from a significant number of pledges made by developed countries towards conservation objectives during COP 9, the meeting took another step forward towards addressing funding gaps. Parties agreed on a strategy for resource mobilisation,<sup>20</sup> which is expected to catalyse additional funding. According to the mission of the strategy, which was subject to intense debate during the meeting, its target is to "substantially enhance international financial flows and domestic funding for biological diversity in order to achieve a substantial reduction of the current funding gaps in support of the effective implementation of the Convention's three objectives and the 2010 target. This target for global resource mobilization should be viewed as a flexible framework for the development of measurable targets and/or indicators addressing all relevant funding sources, according to national priorities and capacities, and taking into account the special situation and needs of developing countries". The strategy's strategic goals and objectives include: improving the information base on funding needs, gaps and priorities; strengthening national capacity for resource utilisation and mobilising domestic financial resources for the Convention's three objectives; strengthening existing financial institutions and promoting replication and scaling-up of successful financial mechanisms and instruments; exploring new and innovative financial mechanisms at all levels; mainstreaming biodiversity and ecosystem services in development cooperation plans and priorities; building capacity for resource mobilisation and utilisation and promoting South-South cooperation as a complement to North-South cooperation; enhancing implementation of ABS initiatives; and enhancing the global engagement to resource mobilisation. Parties are invited to submit views on concrete activities and initiatives including measurable targets and/or indicators to achieve these strategic goals. It remains to be seen whether this strategy will provide the necessary means and tools to inspire the required financial flows for the achievement of the 2010 target.

### **On the Road to Nagoya, and Beyond**

Despite the heated debates on issues of public interest such as biofuels and GM trees, and despite a number of concrete outcomes directly aimed at improving implementation of the Convention at the national level, it was the impression of several participants that something was missing. There was no link among the issues under discussion, and certainly no link between most of them and the rapidly approaching 2010 target. It seems that the challenge for the Convention at this stage is to identify this link. ➔

The CBD is not an implementing agency; its implementation depends on national legislation. Several CBD provisions detail Parties' obligations with regard to the development of national biodiversity strategies and action plans (Article 6), national reporting (Article 26) and integration of biodiversity conservation and sustainable use considerations into national decision making (Article 10(a)). Mainstreaming biodiversity issues across all sectors and throughout the national policy framework is a complex challenge for all nations, let alone developing country Parties. The catalytic action for such achievement is still missing. And maybe this is exactly what has been missing from a meaningful approach towards achievement of the 2010 target, whether it is achieved in 2010 or later.

### Notes

- 1 The agenda of the meeting, as well as all the background documentation, are available at: <https://www.cbd.int/cop9/doc/>.
- 2 For daily coverage, as well as a summary and analysis of the meeting, see the reports of the International Institute for Sustainable Development Reporting Services, at: <http://www.iisd.ca/biodiv/cop9/>.
- 3 In 2004, CBD COP 8 adopted the *Programme of work on protected areas* with the objective of supporting the establishment and maintenance (by 2010 for terrestrial and by 2012 for marine areas) of comprehensive, effectively managed,

and ecologically representative national and regional protected areas that collectively contribute to achieving the 2010 target (Decision VII/28).

- 4 The conclusions of Minister Gabriel from the high-level segment are available at: [http://www.bmu.de/files/pdfs/allgemein/application/pdf/cop9\\_schlussfolgerungen\\_gabriel\\_en.pdf](http://www.bmu.de/files/pdfs/allgemein/application/pdf/cop9_schlussfolgerungen_gabriel_en.pdf).
- 5 Pavan Sukhdev et al., 2008, *The Economics of Ecosystems and Biodiversity – An Interim Report*, at: [http://ec.europa.eu/environment/nature/biodiversity/economics/pdf/teeb\\_report.pdf](http://ec.europa.eu/environment/nature/biodiversity/economics/pdf/teeb_report.pdf).
- 6 CBD press release, 30 May 2008, available at: <https://www.cbd.int/doc/press/2008/pr-2008-05-30-cop9-en.pdf>.
- 7 L. Ivers, "How does a convention get to be a convention?" available at: <http://www.fao.org/docrep/003/y1237e/y1237e04.htm#TopOfPage>.
- 8 The United States of America is the most notable non-Party to the CBD.
- 9 A. Kothari, 2008, "Are we missing the 2010 target?", InfoChange News & Features, June, available at: <http://infochangeindia.org/200806067167/Environment/Politics-of-Biodiversity/Are-we-missing-the-2010-target.html>.
- 10 Millennium Ecosystem Assessment, 2005, *Ecosystems and Human Well-being: Biodiversity Synthesis*.
- 11 T.R. Young, 2008, "Toward the International Regime on Access and Benefit Sharing – progress by inches", *EPL* 38/1–2: 32.
- 12 See T.R. Young, *ibid*.
- 13 See Decision VIII/24 para. 42.
- 14 See SBSTTA Recommendation XIII/3.
- 15 See Decision IX/16.
- 16 See ETC Group, 2008, "The world torpedoed ocean fertilization" 30 May, at: [http://www.etcgroup.org/en/materials/publications.html?pub\\_id=694](http://www.etcgroup.org/en/materials/publications.html?pub_id=694).
- 17 Document UNEP/CBD/COP/9/26.
- 18 Decision IX/2.
- 19 Decision IX/5.
- 20 Decision IX/11.



## CSD-16

## Follow-up

by Rebecca Paveley\*

*In issue 38/4, EPL provided a brief report of the work of CSD-16. The following provides more analysis of the particular discussions in and decisions of that meeting.*

The sixteenth session of the UN Commission on Sustainable Development took place at UN headquarters in New York from 5–16 May 2008. The meeting was scheduled at a particularly apposite time, as many delegates commented, with the attention of the world's media on the current food crisis. Much of CSD-16 focused on the issues behind the drivers of world food prices, such as high energy costs, climate change, land degradation and the generation of biofuels. Spiralling food costs and their effects on the world's poorest drove the discussion over the two weeks. There were stark warnings from many about the extent and length of the crisis, with some describing it as a "real planetary emergency".<sup>1</sup> The two-week-long meeting also took place against the backdrop of three natural disasters: a cyclone in Myanmar, an earthquake in China and tornadoes in the USA. While some delegates at the end of the session were disappointed by the lack of media attention generated by the discussions, others were encouraged that the crisis had engendered a real sense of urgency and cooperation from delegates, which will translate into policy recommendations at next year's CSD-17.

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### Review Phase

The CSD was established to ensure effective follow-up of the 1992 United Nations Conference on Environment and Development (also known as the Rio Earth Summit). It meets annually, in two-year cycles of review and policy making. CSD-16 was a review session, which examined the thematic cluster of agriculture, rural development, drought, desertification, land use and Africa. Next year, CSD-17 will aim to follow up these reviews with firm policy decisions in these areas.

### Agriculture and the Food Crisis

The worsening food crisis propelled much of the debate, particularly during discussions around the theme of agriculture. Three out of four of the world's one billion poorest people live in rural areas and depend on agriculture and related activities for their livelihoods, and agriculture is also the industry most immediately affected by climate change. The long-term neglect of agriculture as well as the extraction and diversion of resources for biofuel production were blamed for contributing to the current food crisis, according to the UN's Department of Economic and Social Affairs.<sup>2</sup>

Delegates called for more investment in agriculture. The World Bank delegate underlined the view that agriculture is fundamental to poverty reduction and said increased agricultural productivity benefits the incomes of the poor, at least twice as much as GDP growth. The World Bank has itself predicted that the food crisis will last at least until 2015.

In a high-level segment to discuss “the way forward”, UN Secretary-General Ban Ki-moon said that agriculture had been neglected for 25 years and highlighted current efforts to address the food crisis,<sup>3</sup> which were welcomed by delegates.

Delegates in this segment debated factors that had brought about the current crisis, naming climate change, energy prices, agricultural subsidies and speculation in agricultural commodities. Sudan said resolving the current food crisis was dependent on reviving the agricultural sector. Discussions focused on food security, and



Francis Nhema (Zimbabwe) Chair CSD-16

Courtesy: IISD

while it was agreed more food aid was needed, many delegates called for an “exit strategy” on aid. Others called for an “early warning system” to be developed on food security to prevent future crises. Some countries – including France, the USA, Australia and Japan – used CSD-16 to announce large increases in their contributions to food aid.

### Debate over Biofuels

The issue of biofuels has moved rapidly up the agenda of many environment meetings, and CSD-16 was no different in this regard. Where once biofuels were hailed by many as the panacea for depleting fossil fuels, now more voices are raised in concern than in support.

The production of biofuels was blamed by many for contributing to the food crisis, as increasingly crops are diverted for fuel rather than food; yet there were other voices supporting the sustainable production and use of biofuels. Concern over the issue was raised in the high-level segment, with proposals put forward to develop international standards for biofuels under a UN mandate. Many

called for the need to look to second or third-generation biofuels which do not use food crops. The issue featured strongly in Chair Francis Nhema’s (Zimbabwe) summary and many delegates hoped this would be translated into firm policy recommendations at next year’s meeting.

### Drought, Desertification and Land Degradation

The linkages between the current food crisis and climate change and its resulting degradation of land were acknowledged and explored in depth by CSD-16. The human cost of drought and desertification, in terms of the refugees they create, was also acknowledged by speakers as was the cultural cost, as indigenous peoples are forced to move from land they have occupied for thousands of years, putting at risk indigenous culture and language. Early-warning systems were called for on drought, which builds up gradually, worsening over time. Some warned of the huge impact that creeping desertification, particularly in Africa, was set to have on migration with warnings of a “tsunami of migration” from the expanding drylands.

### SIDS and Scheduling Issues

The decision to run parallel sessions on SIDS and on the review of CSD-13’s decisions on water and sanitation came in for plenty of criticism from delegates. The Alliance of Small Island States (AOSIS) introduced a draft decision to hold future SIDS days without parallel events and this was welcomed by several SIDS, and mentioned in the Chair’s summary at the end of the session.

There were many of the usual complaints about lack of time, of stilted statements and not enough debate. The success of CSD in attracting a huge number of participants, including representatives from civil society and other sectors – women, farmers, science, business, children and youth, local authorities, workers and trade unions, indigenous peoples and NGOs, who all participated far more extensively than in the past – no doubt contributed to the “statement mode and sound bite trap”<sup>4</sup> commented on by some.

But there was general agreement on the urgent need to find long-term solutions to the drivers of the food crisis, with major investment and structural changes required for agricultural systems. Chair Nhema hailed the meeting as one which had put a “human face” on the work of the UN. His extensive summary of the meeting, discussed by delegates, was a “wish list”<sup>5</sup> of proposals for CSD-17. The meeting concluded with the election of Gerda Verburg, Netherlands, as Chair for the seventeenth session, which will convene in May 2009.

### Notes

- 1 Christopher Flavin, President of WorldWatch Institute, 5 May.
- 2 Press conference, Kathleen Abdalla of UN’s DESA, 6 May, <http://www.un.org/esa/sustdev/csd/review.htm>.
- 3 The Secretary General announced a new Task Force to tackle rising food prices, comprised of UN agencies, the IMF and World Bank.
- 4 See ENB report [www.iisd.ca/csd/csd16](http://www.iisd.ca/csd/csd16).
- 5 See ENB report [www.iisd.ca/csd/csd16](http://www.iisd.ca/csd/csd16).



## UNFCCC

## Climate Change Politics, the UN and National Interests

by Lyn Jaggard\*

On 17 April 2007, following a UK initiative, the UN Security Council held an open debate on the relationship between energy, climate and security. A number of countries including China and Russia disagreed with the debate being held. The Group of 77 and the Non-Aligned Movement were concerned that influence would be wrested from the General Assembly and other UN bodies. This paper explores and analyses the various reactions and contributions to the debate regarding the question: "In search of a solution or international influence?". The following questions will also be considered. Was the Security Council debate a sign of world powers taking on their responsibility for distributive injustices or a sign of continued participatory injustice? Is a solution by any and all means justified or is the only implementable solution one that is reached through participatory and just processes?

Before addressing the above issues, some background information on climate change politics and the UN will be provided.

### Setting the Scene

"Trust Britain, a country that has elevated weather-related small talk to an art form, to turn a debate on climate issues into a stormy clash of international sensibilities".[1] This was the opening sentence of a report in *The New York Sun* on the Security Council debate. Perhaps this was sensationalist but nevertheless it reflects to some degree reactions to the debate. It could also be related to the following quote: "Rationality is always contextual, so a great deal depends on the situation posited at the beginning of the analysis".[4] In other words, the way in which situations, events and problems are perceived, influences the way in which they are addressed. In relation to the subject matter of this paper, the way in which States view: climate change, its causes, impacts and potential impacts; national interests; and the workings of the UN and its various bodies, has a bearing on their reactions to the Security Council holding a debate on climate change and its security implications. This is not to say that climate change and security implications are social constructions, but that the degree to which they are seen as problems are constructions and this impacts on responses. Before examining the reactions of individual States and groupings of States, a brief overview of the main structures of the UN and climate change international relations will be given.

### The UN

The primary body within the UN is the Security Council; it has overall responsibility for peace and security. The Council has five permanent members: China, France, Russia, the UK and the USA; and ten non-permanent members. The non-permanent members are elected by the General Assembly for a period of two years; five



Courtesy: UN

positions come up for election every year. At the time of the debate the non-permanent members were Qatar, Republic of the Congo, Slovakia, Ghana and Peru (membership expired in 2007), and Belgium, Italy, Panama, South Africa and Indonesia (members until 2008). The presidency of the Security Council rotates monthly in alphabetical order of the English country names. Procedural decisions of the Security Council require nine members to agree; all other decisions also need all of the five permanent members to agree.

A more democratic body is the General Assembly where all UN member countries are equally represented and where each member has one vote. According to Gareis and Warwick (2005), decisions of the General Assembly tend to be made by consensus although the requirement is normally for a simple majority; however, some decisions such as the election of members to the Security Council require a two-thirds majority. General Assembly recommendations have no internationally binding authority.

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## Climate Change Politics and the UN

The United Nations Conference on Environment and Development (UNCED) was held in Rio de Janeiro in June 1992. The United Nations Framework Convention on Climate Change (UNFCCC) was adopted in New York in April 1992 and opened for signature at UNCED. Agenda 21 (a programme of action for sustainable development) was adopted at UNCED and from it, the Commission for Sustainable Development (CSD) was formed within the auspices of the UN's Economic and Social Council to ensure its implementation. The UNCED is a continuing process, and it was within this process that the World Summit for Sustainable Development (WSSD) was held in Johannesburg in August and September 2002. The UNFCCC is also a continuing process, out of which the Kyoto Protocol arose (adopted in December 1997, the Protocol came into force on 16 February 2005). The CSD also continues to work on sustainable development and climate change issues, as does the UN Environment Programme (UNEP), which is a subsidiary programme of the General Assembly and the Economic and Social Council. The Intergovernmental Panel on Climate Change (IPCC) was set up in 1988 by UNEP and the World Meteorological Organization; its continuing role is to assess scientific, technical and socio-economic data relating to climate change. The IPCC assesses research carried out by others; it does not carry out independent research.

It has become the norm that the UN's international decisions on climate change occur within the UNFCCC process or within the other bodies mentioned above.

In April 2007 the UK held the presidency of the Security Council, during which time the debate on the security implications of climate change and energy use was held. In order for the Security Council to discuss the issue, the UK had to propose an open debate. The agenda for the debate was put forward in a concept paper attached to a letter dated 5 April; the letter acknowledged that there would be no formal outcome from the debate.

## The UK's Concept Paper

The UK's concept paper explained that the Security Council's open debate on 17 April 2007 would discuss the relationship between energy, climate and security and would focus on the security implications of climate change and its effect "on potential drivers of conflict (such as access to energy, water, food and other scarce resources, population movements and border disputes)".[8] It was stated that these issues have not been addressed in any other international forum. It was recognised that other aspects of climate change are and should continue to be addressed by other UN bodies.

Part of the justification for the debate was Security Council Resolution 1625 (2005) in which "the need to adopt a broad strategy of conflict prevention, which addresses the root causes of armed conflict and political and social crises in a comprehensive manner, including by promoting sustainable development", was reaffirmed.

Suggested questions for the debate to focus on were:

- (a) Which of the risks (or combination of risks) that climate change presents to international peace and security are of most significance, particularly in the most unstable parts of the world? Are there other risks not identified here?
- (b) What are the priority areas where our understanding needs to be improved? And how can we build a sufficient shared understanding?
- (c) How can the Security Council play a part in a more integrated approach to conflict prevention as foreseen in Security Council Resolution 1625 (2005), including greater emphasis on climate-related factors?
- (d) How can the international community prepare more effectively to support States or regions at increased risk of instability because of climate-related factors?
- (e) What role is there for the Secretariat to better inform the Security Council and the wider United Nations membership of the risks that climate change presents to security, and to promote a more coherent response to reducing that risk across the United Nations family?[8]

The concept paper ends by stating that whilst conflicts are likely to continue to be caused by perennial factors such as power struggles and severe inequalities, that the detrimental effects of climate change could exacerbate conflict drivers and that this would be particularly pertinent in countries that are susceptible to conflict.

## Reactions to the Security Council Debating Energy, Security and Climate

Reactions to the Security Council holding a debate on climate change and energy, albeit within the confines of implications for security, were mixed. The debate was not confined to Security Council members and delegates from 55 countries took part, as did the Secretary-General, Ban Ki-Moon. Many more States were represented through delegations speaking on behalf of various groupings. Pakistan spoke on behalf of the G77 (a group of one hundred and thirty countries); Germany spoke on behalf of the EU; Sudan spoke for the African group; Papua New Guinea spoke for the Pacific Islands Forum; and Cuba spoke on behalf of the Non-Aligned Movement (a grouping of one hundred and ten States). A number of countries are members of more than one grouping. It should be noted that some States' contribution to the debate was at odds with that of their group.

Reactions included: welcoming the debate and calling for the Security Council to make climate change a continuing item on their agenda; welcoming the debate as a means of drawing attention to the issue; opposition to the discussions because of fears that the authority of the General Assembly would be usurped; and opposition to the debate citing panic and over-reaction to climate change and its potential impacts. Before analysing the content of the debate, the positions taken by the participants will be set out in table form. The purpose of this table is for ease of reference, however it should be noted that some reactions could be seen to fit in more than one category. ➔

**Table 1. Summary of the positions taken at the Security Council's debate on the impact of climate change on peace and security on 17 April 2007**

Country	Summary of positions taken In favour of holding the debate in the Security Council
United Kingdom	Climate change is a "threat multiplier". It can exacerbate conflict drivers such as access to water, food, energy, population movement and border disputes. Climate change is a collective security issue requiring a long-term global response. Security Council is not pre-empting the authority of other UN bodies. Debates in other UN bodies welcomed.
Slovakia	Loss of arable land, decreasing availability of water, food shortages and mass population movements will cause security and health problems, especially in poor countries. Within Security Council's mandate and competency to consider this new perception of threats.
Ghana	Commended the UK for holding the debate. There are credible reports that the expanding Sahara desert has been a cause of conflict between nomadic herdsman and local communities. Addressing climate change in Africa must be done whilst not compromising the growth needed to reduce poverty.
Congo	Acknowledged the concerns of the G77 regarding the relevant UN bodies dealing with sustainable development issues. However, an urgent response to climate change is needed and the Security Council is well placed to raise awareness of the threats caused by climate change in the international community. Support was also given for the Secretary-General's call for urgent action. Predicted conflicts over food, water and energy on a scale that would dwarf past conflicts. Security Council should raise the alarm but detailed strategies for action should be elaborated elsewhere.
France	Saluted the UK for planning the debate. Climate change among main threats to humankind. Security Council not the main forum for addressing the issue, but neither could it "ignore the threats to peace and security caused by climate change".[7] UNFCCC has a central role. Within Security Council's mandate to prevent conflicts and therefore, has a duty to consider the issue and what could be done with regards to preventive diplomacy. Secretary-General could have a diplomatic outreach role in this respect. A UN dedicated environmental body proposed in addition to UNEP.
Peru	Welcomed the UK's initiative. Attention should be on "prevention and not reaction to possible effects on international peace and security".[7] The Kyoto Protocol should be strengthened, based on the principle of common but differentiated responsibility. The situation should be addressed collectively and urgently.
Germany (on behalf of EU)	Security implications of climate change should receive more attention. Security Council should not only consider imminent threats to peace and security, but also more distant drivers of conflict. A clear link between climate change and need for conflict prevention. Environmental, economic and energy decisions in one part of the world can affect people in other parts of the world, and can be a cause of conflict there. "Sound environmental policies were, therefore, essential. It was necessary to develop concrete strategies for coherent, integrated and holistic responses of the United Nations family and institutions to address that challenge".[7]
Netherlands	Security Council tended to deal with current conflicts but also needed to look toward future threats. Council's discussions would underline its commitment. Individual countries, the World Bank, UN agencies and other institutions all had a role in ensuring disaster preparedness. The Secretary-General should "alert the Security Council to climate-related crisis situations that might endanger peace and security".[7]
Switzerland	Welcomed the UK's initiative. The debate not seen as an encroachment on the General Assembly's responsibilities. Different bodies working within their own mandates will need to contribute to addressing climate change. There is a need to strengthen analytical input into the Security Council with regard to environmental drivers of individual conflicts. International environmental governance, system-wide coherence and UNEP need to be strengthened.
Papua New Guinea (on behalf of the Pacific Islands Forum)	Pacific Islands are already affected by climate change. Many islands may be completely inundated by sea water; cyclones are expected to increase in intensity and frequency; vector-borne diseases such as dengue fever and malaria are increasing; mass population movements are likely. "[C]limate change on small islands was no less threatening than the dangers guns and bombs posed to large nations".[7] The Security Council should continuously review climate change "to ensure that all countries contributed to solving the problem and that those efforts were commensurate with their resources and capacities. [The Pacific Islands Forum]... also expected the Council to review particularly sensitive issues, such as implications for sovereignty and international legal rights from the loss of land, resources and people".[7]
Japan	All relevant UN organs including the Security Council should contribute to a strengthened UN role in relation to climate change. The General Assembly should perhaps ask the Secretary-General to report on how best to organise the UN system to ensure that climate change is addressed coherently and effectively. The role of the Inter-Agency Secretariat of the International Strategy for Disaster Reduction should be amongst those examined.
New Zealand	Climate change a threat to the environment and to fundamental human needs such as "a safe place to live; access to water; health; food; and the ability to earn a living. When those needs were threatened, whole societies were at risk of instability. So it was entirely appropriate that the Council was discussing the security dimensions of climate change".[7]
Tuvalu	The "Security Council should permanently place on its agenda the issue of climate change and environmental security".[7] Tuvalu's coral reefs and fish stocks are detrimentally affected; rising sea levels are threatening its existence. "Such a reality constituted an infringement on the people's rights to nationality and statehood as constituted under the Universal Declaration of Human Rights and other international instruments".[7] Greenhouse gas emissions were referred to as a "chemical war of immense proportions".
Solomon Islands	All the main organs of the UN should address climate change, including the Security Council. It should be addressed on a continuous basis and given the same degree of attention as given to terrorism. "The fact that more people died each year from the effects of climate change than from conflict had not spurred the international community to action. ... The issue of climate change needed to be depoliticized, and all Member States needed to work to close the existing divide and build bridges towards a common and integrated response to deal with climate change, including by implementing the Kyoto Protocol and other international arrangements".[7]
Palau	Agreed with Papua New Guinea. Small island States, such as Palau, are particularly vulnerable to sea-level rise. The Security Council should be aware of risks that were not included in the concept paper such as the threatened destruction of coral reefs. "In 1998, the El Niño warming incident had caused the bleaching and death of nearly one third of Palau's coral reefs. ... The reefs were central to Palau's economy, which relied on tourism, and to its food security. Taken together, the destruction of Palau's coral reefs was tantamount to the country's destruction, and would inevitably lead to the migration of its people and an end to their culture. ... coral reef ecosystems ... provided one quarter of the fish catch in developing countries, and fed over 1 billion people. Their destruction would pose a threat to every country to which former fishermen and their families would migrate".[7]
Denmark	The Security Council should be commended for taking on the debate, although this should not preclude discussion in other forums.
Iceland	Climate change is a serious security issue; especially to small island developing States (SIDS) through sea-level rise. "With open debate in the Council, climate change was finally recognized for what it was: a significant security issue that required the highest attention of world leaders".[7]

Marshall Islands	Many SIDS are already experiencing the effects of climate change. Migration is already occurring in the Pacific region due to sea-level rise. The fate of the Marshall Islands and other SIDS "was not an isolated concern, but the first link in a chain of world events that would weaken the structure of global peace".[7] As well as being considered by other UN and international bodies, climate change should be on the Security Council's regular agenda.
Norway	Welcomed the Security Council addressing the security implications of climate change. The Security Council would become less effective if it ignored environmental drivers of conflict. Improved knowledge regarding climate change and security was required; this would contribute to coherent and effective responses.
Federated States of Micronesia (FSM)	Climate change must be confronted urgently by the Security Council. Climate change has been a serious security issue for some time in the FSM and other SIDS. In recent months a state of emergency had been declared on islands in the state of Chuuk due to unusually high tides and resultant damage to food crops, homes and sea walls. It had necessitated the relocation of some residents.
Singapore	Climate change will have implications for peace and security. The Security Council has a role, but so too do other bodies. The General Assembly, UNEP, the Economic and Social Council and the CSD all have roles. The General "Assembly should consider convening a high-level event or a special session dedicated to climate change. <sup>1</sup> There was no point sitting around and complaining that the Security Council is encroaching into areas that should be dealt with by the General Assembly. The Assembly should rise to the challenge and do something about that global issue. Hopefully, today's debate would inspire the international community to take the next step of dealing with the issue in a broader setting involving the entire United Nations membership".[7]
Liechtenstein	Climate change and energy issues have the potential to detrimentally impact security and the Security Council could play an important part in increasing understanding of the threats.
Ban Ki-Moon, UN Secretary-General	Security Council should work "with other competent intergovernmental bodies to address the possible root causes of conflict discussed today".[7]
<b>Against holding the debate in the Security Council</b>	
China	Whilst climate change could have security implications it is mainly an issue of sustainable development and should be discussed in a forum that allows all parties to participate in decision making. Security Council does not have required expertise nor does it allow for participation by all parties.
Indonesia	Agrees with objectives of debate but effective action being taken elsewhere <i>i.e.</i> , the CSD. Future threats to security should be avoided and to this end the Rio principles should be adhered to, especially common but differentiated responsibilities. All States should also comply with Agenda 21, the UNFCCC, the Kyoto Protocol and the Johannesburg Plan of Implementation. Supports the Non-Aligned Movement's position (see entry for Cuba).
South Africa	Not within Security Council's mandate. Issue would be better dealt with in other forums. Issue mainly developmental and would be best dealt with by the General Assembly. The common but differentiated responsibility principle adopted in Rio in 1992 is fundamental to any climate change debate. The WSSD had affirmed this principle. Responsibility for climate change and sustainable development has been given to the General Assembly, the Economic and Social Council, the CSD, UNEP, UNFCCC and the Kyoto Protocol. All countries should honour existing commitments. Developed countries should lead in funding adaptation measures.
Russia	Russia has been active in global efforts addressing climate change. Future efforts should be based on scientific evidence. International community should not panic. Security Council should only deal with issues directly within its mandate. Climate change should be addressed by the General Assembly, the CSD, the World Meteorological Organization and other relevant forums.
Pakistan (on behalf of G77 developing countries and China)	Energy and climate change are sustainable development issues, responsibility for which lies with the General Assembly, the Economic and Social Council, CSD, UNEP, UNFCCC and other relevant bodies. The Rio principles should be borne in mind with regards to promoting sustainable development. The risks associated with climate change should be dealt with through the Kyoto Protocol. "The ever-increasing encroachment of the Security Council on the roles and responsibilities of the other main organs of the United Nations represented a 'distortion' of the principles and purposes of the Charter, infringed on the authority of the other bodies and compromised the rights of the organization's wider membership".[7] "The Group also held that the decision by the Council to hold this debate did not create a precedent or undermine the authority or mandate of the relevant bodies and processes already addressing the issue".[7]
Egypt	Subject of debate clearly within remit of other UN bodies, particularly the General Assembly and the Economic and Social Council. Egypt was "concerned with the Council's encroachment on the mandates and responsibilities of other United Nations bodies, as well as indifference to the repeated demands by Member States to put an end to that dangerous and unjustified practice, leaving the way open for every President of the Council to decide on the theme of focus, even if it was totally beyond the mandate. That emphasized the importance of reforming the methods of work of the Security Council, together with expansion of its membership. It was also necessary for the General Assembly to take more decisive measures to stop such infringement. ... Developed countries were responsible for climate change. Developing countries – including Egypt – viewed the debate in the Security Council as an attempt on the part of those countries to shrug off their responsibilities in that regard. The right way to combat climate change was clear: all parties – developed and developing – should implement their commitments according to the principle of 'common but differentiated responsibilities', and not according to the principle of 'shared responsibilities', which some countries were seeking to promote".[7]
Venezuela	It is not appropriate to debate the issue in the Security Council. Energy and environmental policies are sovereign issues. The UNFCCC and Kyoto Protocol most appropriate frameworks for addressing climate change. "Dealing with it in other forums could produce an impression of an effort to dilute the responsibility of developed countries for greenhouse gas emissions".[7]
Sudan (on behalf of the African Group)	The debate does not fall within the Security Council's mandate. Issues relating to social and economic development are the responsibility of the General Assembly and the Economic and Social Council. The Security "Council's increasing and alarming encroachment on the mandates of other United Nations bodies, which the Council was trying to justify by linking all issues to the question of security, was compromising the principles and purposes of the Charter and undermining the relevant bodies".[7] Risks could be managed through the UNFCCC and the Kyoto Protocol.
India	Criticised the Stern report as presenting "political argument as the outcome of an objective scientific modelling process regarding climate change and its fallout [and it] could hardly be discussed in any meaningful manner".[7] More immediate threats came from poverty, inadequate resources for development and competition for energy. The UNFCCC is the appropriate forum for discussing climate change. If developed countries reduced their greenhouse gas emissions and consumption, security threats could be reduced. If developing countries took on greenhouse gas mitigation targets it would hinder development and increase insecurity.
Cuba (on behalf of the Non-Aligned Movement)	Concern was expressed "regarding the continued and increasing encroachment of the Security Council on the functions and powers of the Assembly, the Economic and Social Council and other organs, by addressing issues that traditionally fell within their competencies".[7] Member States were called upon to respect the functions and powers of UN bodies and particularly the General Assembly. The UNFCCC is the appropriate forum in which to address climate change and its risks.

<b>Not stated but broadly in favour of the debate</b>	
Italy	Security and stability may potentially be affected by climate change, particularly when combined with other conflict drivers. Predicted mass population shifts would contribute to increased poverty, thereby increasing discontent and possible rebel and terrorist recruitments. A UN environment organisation advocated.
Belgium	Non-military threats raised, including sea-level rise, degradation of biodiversity, crop depletion and population displacements. These factors increased risk of conflict and civil war in fragile States. Necessary to broaden thinking about security threats. Secretary-General should promote political will to recognise climate change and its security dimensions.
USA	G8 leaders agreed at Gleneagles meeting that "energy, security, climate change and sustainable development were fundamentally linked".[7] Well governed States most secure; they also prospered, thus enabling climate change challenges to be dealt with. <sup>2</sup>
Panama	Further study needed with regard to linkages between socio-economic growth, global warming and peace and security. All levels should be involved and "with a view towards integrated and synergistic approaches. All United Nations organs should debate the impacts of climate change, in accordance with their respective mandates".[7]
Maldives	Heartened by increased attention. The debate should stress that close cooperation and coordination between all UN organs is needed to be able to address emerging threats. Environment, energy and climate change have been dealt with by various organs including the General Assembly, the Economic and Social Council, CSD, UNEP, UNFCCC and the Kyoto Protocol. Supported view of G77 (see Pakistan entry) that it is vital for all Member States to adhere to Rio principles, especially common but differentiated responsibility, and to fully implement Agenda 21. Also "an urgent need to fulfil all other commitments, including the transfer of available technologies to developing countries".[7]
Barbados	Climate change is a global emergency; the existence of small island States is threatened. The Security Council debate should inspire other UN organs to fully assume their responsibilities.
Ukraine	Crucial for climate change and security to be jointly addressed.
Australia	Moving early to address the issue could "reduce the potential threats to human well-being and security".[7] The work of, and working through, the UN International Strategy for Disaster Reduction commended and encouraged.
Bangladesh	Millions of people in Bangladesh could suffer, caught between flooding rivers and rising sea levels. The international community needs to act urgently. Welcomed calls for a world summit on climate change.
Republic of Korea	The Stern and IPCC reports made it increasingly clear that climate change is a threat to security; immediate international action is needed.
Argentina	Acknowledged a variety of risks to populations around the world. The international community had adopted the common but differentiated responsibilities principle. "Those countries responsible for such grave changes in the world climate also possessed the best and most abundant material, technical and financial resources to deal with the challenges of reducing the effects of climate change".[7]
Bolivia	Ecological and environmental factors impact on sustainable development, particularly in developing countries. "[P]rivatization of many water supplies during the 1990s had led to 'water wars' in some areas. ...It was high time for all stakeholders to come together to address the world's serious clean water needs before it was too late".[7]
Cape Verde	Global partnership is urgently needed to avert threats to potential overall global security. Renewable energy technologies should be developed and disseminated and the use of renewable energy increased.
Canada	Risks were clear and the time for action now. "Efforts were also needed to better integrate climate change into the international community's long-term security and humanitarian strategies".[7]
Mauritius	Human activity is contributing to climate change, which was accelerating. AIDS are highly vulnerable. Support was expressed for a UN environmental organisation.
Comoros	Comoros is suffering from coastal destruction, loss of agricultural land, soil degradation, population displacement and poverty. Globally, droughts, torrential rainfall and hurricanes result in loss of life. The international community should act, it "should not wait to the last minute – otherwise, the islands could disappear forever".[7]
Qatar	Climate change requires urgent "international collective action to alleviate its repercussions and dire consequences for the planet".[7] Climate change must be addressed in the context of sustainable development. Issue could not be addressed exclusively through the Security Council. Enforceable mechanisms needed but must be through wider representation. Security Council not the best place to address the issue because of its power structure. "What was needed was a specialized, competent forum like the Commission on Sustainable Development, the Economic and Social Council and, first and foremost, the General Assembly".[7]
<b>Argument ambiguous</b>	
Namibia	Threats from climate change would be best dealt with through environmental instruments. "For Namibia, climate change was ... a life or death matter. For that reason, the country's delegation would not question the legitimacy of holding the current debate in the Security Council, seeing that there was room for reflection on various angles of the issue. However, action must be taken by the appropriate organs".[7] Curbing greenhouse gas emissions by developed countries was critical: "developing countries, in particular, had been subjected to what could be described as 'low intensity biological or chemical warfare'".[7]
Philippines	Associated their position with the Non-Aligned Movement, G77 and China (against Security Council as place for this debate). Participated in the "debate because of the importance it placed on energy, security and climate change issues".[7] (All countries should comply with their UNFCCC obligations and should consider climate change "as an integral part of their development plans".[7])
Mexico	The debate a valuable exercise to contribute to increased awareness. The Security Council should not take on responsibilities for preventive measures that were being addressed in other forums. The General Assembly, the Economic and Social Council and other bodies that addressed the issue should be strengthened.
Brazil	Acknowledged the UK's initiative but urged caution in attributing causal links between climate change, resource use and conflicts. Conflicts have numerous causes. There is a more relevant link between climate change and development than with security. If developed countries did not fulfil their greenhouse gas reduction commitments it was widely accepted by scientists that this would affect the climate; this could become a factor in social and economic instability. The climate change regime, including the UNFCCC and the Kyoto Protocol, should be strengthened. Historical responsibilities, the polluter pays and the common but differentiated responsibilities principles should be recognised with regard to funding adaptation measures.
Costa Rica	Supported the position of the G77 and China (against discussion in the Security Council). Climate change is "one of the most urgent issues facing the international community ... Further arguments were not needed to prove the link between issues of energy and climate change with security".[7]
Israel	Access to water, food, land and energy are all potential issues of conflict, and climate change exacerbated these drivers. Israel looked forward to the upcoming CSD and other forums for dealing with climate change and related issues.

Source: United Nations Security Council. SC/9000. 17 April 2007. Department of Public Information. UN (marked 'For information media • not an official record').

### Analysis

Generally it was not the contention that climate change has security implications that caused disagreement but the degree to which there are security implications and the fact that the Security Council is not fully democratic.

The need for implementation of the common-but-differentiated-responsibilities principle was called for by a number of countries. Implicit in those arguing against the Security Council debate was that the discussion was aimed at negating this principle. The suspicions appear to be that developed countries would unilaterally make decisions that would not fully take into account their responsibilities for climate change and that these decisions would be imposed on developing countries *i.e.*, on those that have little responsibility for causing climate change, and who have few financial resources with which to adapt to the impacts of climate change. It should be stated that the UK acknowledged in its concept paper that the UNFCCC should pursue the stabilisation of “greenhouse gas concentrations in the atmosphere at a safe level, based on the principle of common but differentiated responsibilities and respective capabilities”.<sup>[8]</sup> The need for this principle to be fully implemented was stated by countries in each of the four categories identified above regarding attitudes toward the Security Council debate. As previously stated, how situations and problems are perceived impacts the ways in which they are addressed. This links to the differences in understanding highlighted in this discussion. Using the same language does not necessarily mean that agreement has been reached; interpretation appears to be all important. (In)justice issues abound in matters relating to climate change. The common but differentiated responsibilities principle can be linked to the idea of distributive justice as the principle appears to be an attempt to take into account the varying and differential responsibility for causing the problem when deciding who should primarily take action to resolve it. States that argued against holding the debate and who cited this principle were in effect contending that an attempt to continue with entrenched distributive injustices was being made. States that cited this principle and that were in favour of the debate may have viewed this effort (if thought of at all in this vein) as going part way to meeting this principle as they were trying to take responsible action. The likelihood is that these States would have thought of the debate in terms of a pragmatic action to take in an endeavour to try to expedite action. The differences in these stances are an example of the assertion that “Value conflict is at the heart of environmental politics”.<sup>[5]</sup> It should be noted that appeals to justice also differ.

Many of the countries that have their existence threatened by the effects of climate change, *i.e.*, SIDS welcomed the Security Council debate and called for climate change to be a continuing item on the Security Council’s agenda. In line with the UK’s suggested questions for the debate, Palau called for the destruction of coral reefs and the impact that their demise could have on the physical vulnerability and existence of small islands, to be included in security considerations. It would appear to be predictable that it would be in the national interests of States that are

severely threatened by climate change to welcome the Security Council debate and to call for continued attention and action.

The apparent predictability of national interests mentioned above was not always evident as some countries that are particularly vulnerable to climate change were against the debate being held in the Security Council. Sudan, a country in which conflict has been partly attributed to climate change spoke against the debate stating social and economic developmental issues were within the purview of the General Assembly. As detailed, in the preceding table it further decried the continued infringement of the remits of other UN bodies by the Security Council by using security links as justification. It is intimated that these security links are tenuous and are used as an excuse for increasing the power of the Security Council. Risks were acknowledged in so far as it was stated that any risks could be managed through the UNFCCC and Kyoto processes. This is perhaps an example of value conflicts and competing national interests. Climate change and security may be an issue for Sudan and other like-minded countries but so too is the concern that the right to participation in decision-making processes may be wrested from them. From a realist viewpoint it may be argued that States are endeavouring to protect their varying and sometimes competing national interests. This may be so, but it can also be argued that a more appropriate theoretical position would be one that encompasses the idea of the right to participation in decision-making process, such as a deliberative form of democracy or discourse ethics.

Sudan was speaking on behalf of the African Group; however, not all African countries were totally against the debate. In a rather ambiguous argument, Namibia stated that climate change was a matter of life and death for them and they would not, therefore, question the legitimacy of the debate. Namibia described the effects of greenhouse gas emissions that are being most keenly experienced by developing countries as being akin to “low intensity biological or chemical warfare”.<sup>[7]</sup> This statement directly equates the effects of greenhouse gases to more traditional security threats and could, therefore, be taken as being an outright acceptance of the security implications of climate change. It could be deduced that the Security Council debate would be viewed as being appropriate. However, Namibia also stated that threats caused by climate change would be better addressed through environmental instruments. This argument could be seen as not wildly different to that of Sudan’s but rather having a shift of emphasis. If the varying arguments were seen as existing along a continuum then Namibia’s would be between that of Sudan and the UK, but closer to Sudan’s.

Africa has been identified as being vulnerable to climate change; it may therefore seem to be in African countries’ interests to have climate change discussed and addressed at the highest levels possible; as the above paragraph explains this was not generally the case. In addition to the views outlined above, both Egypt and South Africa were against the debate, they argued that climate change was not within the remit of the Security Council and that other UN bodies such as the General Assembly held the

required remit. Egypt was particularly vehement in its attack on the Security Council's encroachment on other areas of the UN; it also stated that it and other developing countries viewed the holding of the debate as being an attempt by developed countries to renege on their responsibilities with regard to climate change. The need for all countries to meet their responsibilities in accordance with common-but-differentiated responsibilities was reiterated, and "not according to the principle of 'shared responsibilities', which some countries were seeking to promote". [7] This latter comment could possibly be seen as a reaction to the likes of the USA refusing to enter into agreements unless developing countries such as China and Brazil, which are rapidly industrialising, are included. From the point of view of some developed countries such as the USA, to act without industrialising countries also agreeing to act would be detrimental to their own economic future potential and would not seriously address climate change as the likes of China will pollute more and more and global greenhouse gas emissions will not decrease.<sup>3</sup> From a developing country's viewpoint, why should developed countries be allowed to reap the rewards from industrialisation, not meet their responsibilities *i.e.*, "the polluter pays principle" and yet not allow developing countries to work their way out of poverty and to realise the same benefits as the aforementioned States. The negative reference to shared responsibilities could also be "positioning" in preparation for the UNFCCC conference in Bali in December 2007 and the general debate on reaching a post-2012 agreement (the first commitment period of the Kyoto Protocol ends in 2012). National interests can be diverse, considerations may have included: a desire to have climate change addressed effectively, but not to the perceived detriment of their individual country in terms of giving up their rights to a say in how issues that will have a fundamental impact on the future development and existence of their State are governed, *i.e.*, not wanting to cede sovereignty; and wanting to position themselves regarding negotiations that are under-way and for continuing in forums away from the Security Council.

Not all African countries were against the debate. Ghana and Congo welcomed the Security Council discussion. Ghana pointed to conflicts between nomadic and settled communities, which have resulted from the expansion of the Sahara desert. Congo acknowledged concerns of the G77 regarding relevant bodies dealing with sustainable development but argued that addressing climate change was a matter of urgency and that the Security Council could raise awareness of the issue. Again competing national interests can be detected, but in these instances the perceived efficacy of having the Security Council discuss climate change appears to have outweighed the concerns put forward by the G77 as a whole.

Mentioned above was the "polluter pays principle"; it is interesting to note that this principle was only mentioned by Brazil in the Security Council debate. Brazil recognised the UK's initiative, but urged caution with regard to attributing causes of conflict to climate change or any one cause. It called for historical responsibilities, and for the polluter pays and the common but differentiated responsibilities principles to be recognised in order to fund adaptation measures. The call for historic responsibilities and the polluter pays principle to be taken into account can be seen as a call for retributive justice to be fulfilled.

Retributive justice can be seen as taking responsibility for distributive injustices and making amends for them. Amongst Brazil's arguments, it noted that if the developed countries do not fulfil their greenhouse gas reduction commitments, and the climate changed, then this could contribute to social and economic instability. It could be questioned that as the developed countries are largely responsible for anthropogenically induced climate change and are, therefore, largely responsible for taking action, should developing countries have a say in how they choose to take that action. The answer to this would be that the developed countries' actions in emitting greenhouse gases have caused and continue to cause detrimental effects globally, and often in

developing countries, thus as parties that have been wronged they do have a right to have a say in how the matter is to be resolved. In extreme cases the existence of some States are threatened, there is no greater threat to sovereignty and so any impingement on the sovereignty of industrialised nations in the form of others having a say in their economic policy making is justified.

Of the countries that overtly criticised the debate, Sudan (for the African Group) has been discussed above. The others: China, Indonesia, South Africa, Russia, Pakistan (for the G77), Egypt, Venezuela, India and Cuba (for the Non-Aligned Movement) are mainly developing countries and a number are rapidly industrialising. All countries have diverse and competing national interests, thus there is a need for prioritisation. For many developing countries the alleviation of poverty through development is a prime national interest and it is therefore understandable that these countries may wish to protect their rights to future unrestricted (by external parties) development. The fear that the Security Council may take on board climate change as a continuing security issue and at some point make decisions that would impact on these countries, possibly in a way that impedes their development, but decisions in which they would probably not have had a say, is perhaps a reasonable one. It is, therefore, an understandable and perhaps logical decision to fight the perceived encroachment of the remit and democratic rights of the General Assembly. In the long term, unfettered development that does not take into account



Courtesy: Financial Times

impacts on climate may cause greater problems than these States are currently experiencing. The main point of contention is that developed States have largely caused the problem and it is they that should take the first major steps towards solving it, paying for mitigation and adaptation measures and restricting the use of fossil fuels. They should not force developing countries to pay through continued underdevelopment and poverty for their populations. An underlying cause of concern appears to be that the developed States have benefited from industrialisation and have, through their economic wealth, managed to gain political power on a global scale. They want to hold on to, and indeed increase their level of development and to hold on to their international political power *i.e.*, to protect their national interests. It is perhaps reasonable they fear that developed nations wish to continue to dominate, and therefore to fight to have a say over the future trajectory of international climate-change-related politics and governance. This appears to be an underlying belief of developing countries.

It is worth noting here that the once-significant constraint in Article 12, according to which the General Assembly may not issue any recommendations on a problem that is still being discussed in the Security Council, has in practice lost all meaning.[2] The Security Council could continue discussing climate change and the General Assembly could still deliberate and issue recommendations. Nevertheless, the Security Council could potentially make decisions regarding climate change and energy that impact on States that have not had a direct say in the decision-making process and it is this point that is contentious.

China, a permanent member of the Security Council, was against the debate on the grounds that climate change, whilst having security implications, is primarily a matter of sustainable development and should be dealt with in a forum where the decision-making process allowed for all parties to participate. Whilst China has the right to be involved in Security Council discussions and as a permanent member has the right of veto, it is also a rapidly industrialising country; millions of its people live in poverty. It may well be in its national interests to ensure that discussions are held in forums where numerous developing countries are able to put forward a similar argument to its own.

India argued that poverty, inadequate resources for development, and competition over energy were more immediate threats than any resulting from climate change, and that if developing countries adopted greenhouse gas mitigation targets that development would be hindered and insecurity would increase. This may be so in the short term as continued extreme poverty in parts of the world existing alongside growing wealth in other parts may well lead to a growing sense of injustice and discontent; these factors contribute to violent reactions. In a world of ever increasing media coverage and knowledge transmission, differences in wealth are known about in a way that was not hitherto the case. It can, however, be argued that not taking action now, will in

the long term increase insecurity and exacerbate conflict drivers. Matters for debate are who should take action now, and who should have a say in what that action should be?

The USA's argument was relatively neutral, stating that the linkages between climate change, energy, sustainable development and security were agreed upon at the G8 meeting in Gleneagles. It was stated that well-governed States prospered and were most secure and were therefore more able to deal with the challenges that arose from climate change. This reference to well-governed States is indicative of what the USA sees as its national interests as it can be understood to reflect the George W. Bush's administration's apparent preoccupation with trying to ensure that States worldwide are governed in a way that they approve of, and in a manner that is of no threat to the USA's current position.

As previously mentioned Pakistan speaking on behalf of the G77 was against the debate and argued that the Security Council was increasingly encroaching on the authority of other UN bodies and compromising the rights of the UN's wider membership. It also asserted on behalf of the G77 that the debate "did not create a precedent or undermine the authority or mandate of the relevant bodies and processes already addressing this issue".[7] These are contradictory statements. Nevertheless, they can be taken as showing real concern that the Security Council is trying to take on more powers, but showing a resolve to endeavour to stop them from actually doing so. In other words Pakistan was trying to protect its national interests.

The UK is a robust promoter of the need to address the climate change issue, and it would appear that genuine concern to effectively address the future security and stability of the world had led the UK to utilise its period of presidency of the Security Council to host the debate. It is possible that, if an issue is accepted as a "hard" enough issue to be discussed in, and addressed by the Security Council, that the security implications will be more seriously noted and actions to mitigate and adapt to climate change may be given more impetus and importance. Security issues have historically been given greater precedence in international relations. Initiating the Security Council debate on climate change may have been an effort to raise what has been perceived by many as a "soft" issue to one taken seriously, by connecting it to and indeed elevating it to a "hard" issue. It is not only the UK that is trying to increase the attention climate change and its implications receive. This action can be seen as part of a process, for example Ban Ki-Moon used his prominence to attribute the conflict in Darfur at least partly to climate change. It should however, be borne in mind that there are probably a number of reasons for the UK wanting to raise the importance of the issue and to increase global action. Clearly, the UK believes that climate change is an important and urgent matter that needs to be addressed. However, neither the UK, nor any nation can address the issue alone; an effective outcome will require the vast majority of States to take action. If the UK and other States take action without all, or at least most, other major players doing so, not only will the climate continue to change and detrimental effects increase, but the action that the UK and other States have taken will leave them at

a competitive disadvantage. Thus, worldwide agreement and action are in the UK's national interests, in a number of ways.

### Concluding Analysis

It has been shown that differences over the Security Council debating the relationship between energy, security and climate change were mainly about the perceived aims of the debate rather than over whether or not climate change and energy use have security implications. This could be seen as promising because there appears to be an underlying thread of agreement. Extensive discussions that are open to all and where all have a fair say and where all are listened to could: build on this thread of agreement; enable a greater understanding of people's true positions and fears, and help to establish trust. In an ideal scenario this could lead to true consensus and not just compromise. "It should be noted that compromise requires changing actions, whilst consensus can imply changing cognitions, interest patterns and options for actions".[3] A situation in which participative justice is delivered is perhaps a dream scenario when so many parties have an interest in the issue; it is nevertheless a reasonable desire and thus a reasonable aim to have one's argument heard. Is it really a matter of equality versus efficacy or can a just and efficient solution be found? If it is accepted that there are and/or will be threats to security from climate change and that it is appropriate for the Security Council to consider the issue, then this perhaps adds weight to calls for the Security Council to be restructured. It is not within the realms of this paper to discuss in depth how this may take place. It can be argued, however, that a new framework would need to take fair participation into account. However difficult it may be to arrive at a workable framework that is perceived by all as being just, it is necessary to work toward this eventuality. Decisions that are imposed are far less likely to be implemented than those that are universally agreed upon. Perhaps a form of pyramidal democracy would be appropriate. Representatives of each country already discuss issues at the UN and although there are permanent representatives *in situ*, different representatives attend on issues according to their expertise. Perhaps *x* number of countries from the General Assembly could, according to the issue in question and individual State's expertise, go forward and represent the General Assembly at the Security Council. This brief suggestion requires much research and analysis, it is not meant as a definitive suggestion for a framework.

The UNFCCC process through which multilateral agreements are currently channelled is far more democratic than the Security Council. It may be that this is the reason why reaching agreement takes so long. As has been previously argued, decisions that are reached by consensus, whilst difficult to reach, are more likely to be effectively implemented because they are viewed by all participants as being just. Discussing deliberative democracy Smith argues that "two fundamental conditions need to be fulfilled for the emergence of more legitimate and trustworthy forms of political authority: inclusiveness and unconstrained dialogue".[5] It can be argued that the format

used within the UNFCCC is along the right lines and that a way needs to be found to include such open dialogue at all levels of the UN, but in a manner that is more efficient.

The question addressed in this paper "Climate change politics, the UN and national interests: In search of a solution or international influence?" suggests that most States that contributed to the debate appear to have a solution and influence in mind. Different States may weight these factors differently but if climate change is seen as a threat to security then a solution to that threat will be sought. The main differences have been over how that solution is sought and arrived at, and mainly over who participates in that process, *i.e.*, over who has influence.

Justice issues have been discussed both explicitly and implicitly. Distributive justice, retributive justice and participatory justice have been explicitly mentioned. Matters of intergenerational justice have been implicit. Not only are problems and their possible solutions viewed in different ways, but these value positions impact on views of, and calls for, justice. It may well be that differing views of justice impact on the way a problem is viewed in the first place. To enable a greater understanding of each party's position open dialogue is needed; such a dialogue would lead to possible consensus or more probably to cooperation and compromise. Viewed in this light, it can be argued that the Security Council debate was a step in the right direction.

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### Notes

- 1 In September 2007 a high-level event on climate change was convened by the Secretary-General, Ban Ki Moon, and in February 2008 the General Assembly held a high-level thematic debate on climate change.
- 2 Although included in the "broadly for the debate" category, the USA were not initially in favour of the debate.
- 3 It is pertinent to mention that some industrialisation taking place in China is due to a relocation of manufacturing industries from developed countries. This has the effect of enabling developed countries to reduce their greenhouse gas emissions, whilst China increases its emissions. The demand for products in developed countries helps fuel China's increased emissions; additionally emissions from transportation increase.

UN / ESA

## The Finance for Development Process in Review

by Soledad Aguilar\*

The overarching goal to “eradicate poverty, achieve sustained economic growth and promote sustainable development as [we] advance to a fully inclusive and equitable global economic system”, stated in the Monterrey Consensus, a result of the International Conference on Financing for Development, held in Monterrey, Mexico in March 2002,<sup>1</sup> is as relevant in 2008 as it was six years ago. Some progress has been made, however, and certain conditions for development have evolved in light of new challenges, thus the process leading to the Monterrey Consensus Review Conference to be held in Doha, Qatar, from 29 November to 2 December 2008, will provide an opportunity to take stock of progress made, and refine goals and recommendations in light of new challenges such as the growth of private financial flows to developing countries, and the threats of climate change and food security.

### Background

The 62<sup>nd</sup> UN General Assembly (2007), adopted a schedule for the “Follow-Up International Conference to Review the Implementation of the Outcome of the International Conference on Financing for Development”<sup>2</sup> including substantive informal review sessions on the six thematic areas of the Monterrey Consensus during the first semester of 2008.

The review sessions, co-chaired by Amb. Maged A. Abdelaziz of Egypt and Amb. Johan L. Løvold of Norway, featured panel presentations and interactive debates, as well as presentations by country groups, individual countries, and intergovernmental and non-governmental organisations. On the basis of discussions held, the President of the UN General Assembly issued a draft Outcome Document on 25 July 2008, and a report to the General Assembly on latest developments related to the “Review process on financing for development and the implementation of the Monterrey Consensus”<sup>3</sup> inviting countries to develop their positions in order to hold informal negotiations on the Outcome Document between September and November 2008.

The following brief will review the main issues presented during the review sessions on the different chapters of the Monterrey Consensus during the first semester of 2008.

### Chapter I. Mobilising Domestic Resources for Development

The review session on Chapter I of the Monterrey Consensus (14 February 2008) provided clear evidence

of improvements in domestic finance in developing countries since the adoption of the Consensus in 2002, including governance reforms, better macro-economic management and domestic savings and investments.<sup>4</sup> Discussions focused on creating a supportive enabling environment for business and investment, good governance, control of corruption, and sound macro-economic policies and banking systems. Participants, for example, held that macro-economic policy should be flexible and adapt to long-term structural changes that are taking place in developing countries, as well as include counter-cyclical elements to address short-term fluctuations.<sup>5</sup>

The European Union stated that most actions identified in the Consensus under this Chapter are still relevant today and proposed sustaining economic and financial efforts to generate “sustainable pro-poor growth”, and good economic and financial governance through the “pillars of transparency, accountability, rule of law and participation”. In this regard the European Union noted the need to implement the UN Convention against Corruption and the G8 Action Plan for Good Financial Governance in Africa.<sup>6</sup>

The US submission placed emphasis on promoting a “business climate reform” as an engine for development, including actions to fight corruption, promote fiscal strength through tax system reforms and public sector expenditure control, and opening up financial sectors.<sup>7</sup>

The Rio Group of countries in Latin America<sup>8</sup> agreed on the need to create good and open business climates, placing additional emphasis on macro-economic policies aimed at improving employment conditions, and promoting the development of human resources in order to foster increased levels of employment in the formal sector.<sup>9</sup>

The Outcome Document, in its first sections on domestic financial flows, restates the objectives of the Monterrey Consensus noting the need to “continue to build upon this progress and endeavour to strengthen an investment climate that promotes entrepreneurship and facilitates establishing and doing business”. It cautions, however, that to take advantage of the benefits of globalisation while minimising its costs, “opening the economy must also be accompanied by sufficient policy space and domestic measures that enhance resilience, in particular in the macroeconomic and financial areas”.<sup>10</sup>

### Chapter II. Mobilising International Resources for Development

The review session on Chapter II of the Monterrey Consensus (15 February 2008) focused on the attraction of foreign direct investments (FDI) through supportive economic policy and regulatory frameworks, as well as

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on preventing the negative consequences of opening economies to foreign capital flows through debt management, strengthening national financial regulations, and an orderly liberalisation of capital flow.<sup>11</sup>

The Rio Group emphasised the need to continue providing an enabling environment for foreign direct investments, but cautioned on the importance of measures to counterbalance the impact of the volatility of financial capitals.<sup>12</sup> The European Union noted the need for technical assistance for developing countries that succeed in attracting foreign capital and proposed an effective system for monitoring and managing public and private sector external debt, and precautionary measures to dampen the volatility of capital flows, as a way of reducing the risk of externally-induced financial crises. The United States noted the substantial increase in FDI since 2002, rising to a record of \$325 billion, and its positive impact on development.<sup>13</sup>

During discussions, participants expressed concerns over the increasing poverty in sub-Saharan Africa. They also reviewed the positive effects of FDI on developing countries, while noting the need to sequence financial liberalisation to prevent destabilising short-term capital flows. Some expressed concern about the expected decline in capital flows due to the current global financial turmoil, while others noted that FDI remains concentrated in a few countries and emphasised the importance of improving the stability and quality of capital flows.

The Outcome Document's section on FDI welcomes the rise in private international capital flows to developing countries since the Monterrey Conference while noting the need to "broaden the number of countries and sectors receiving such flows". In particular, it notes the need to increase FDI to Africa. The Outcome Document also highlights that the quality of FDI plays an important role in enhancing the development impact of these investments, and includes a commitment to "strengthen efforts to maximize linkages with domestic production activities, the transfer of technology and the training of the local labour force", as well as to make "stronger efforts to promote corporate social responsibility and good corporate governance and seek to ensure that adequate labor and environmental protection standards are upheld everywhere".<sup>14</sup>

### Chapter III. International Trade as an Engine for Development

The review session on Chapter III (19–20 May 2008) focused on the challenges currently confronting the Doha round of negotiations in the World Trade Organization (WTO).<sup>15</sup> The European Union, the Rio Group, the United States, the WTO and the Organisation for Economic Co-operation and Development (OECD) made presentations highlighting the role of international trade liberalisation in promoting development and the need to advance further in the Doha development mandate.

Countries commented on the "Aid for Trade" initiative, with the G-77 and China cautioning that its compensatory nature, redressing the loss of markets as a result of new multilateral trade agreements, does not serve as a catalyst for developing countries' export potential. The G-77/China thus suggested redesigning this concept to enable increased trade capacity, rather than compensating for market losses.

Canada, New Zealand and Australia reflected on the need for trade reform and the challenges placed by the current food crisis, noting that policies to improve agricultural productivity and food distribution will do much more to improve food security than subsidies or other trade-restrictive practices.<sup>16</sup>

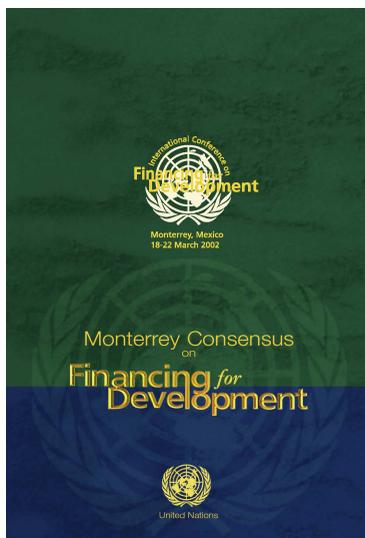
The Outcome Document highlights that Aid for Trade is a vital component of the measures required for developing countries to effectively benefit from the Doha Round, and commitments in this respect should be fully implemented. However, it notes the Aid for Trade initiative is not a substitute for a successful outcome of the Doha Development Agenda and prescribes that the initiative should be enhanced to support efforts by recipient countries to seize new trade opportunities and assist them in addressing trade liberalisation adjustment measures. It further notes the Aid for Trade initiative should aim to enhance competitiveness and ownership, and alignment with national development strategies.<sup>17</sup>

### Chapter IV. Increasing International Financial and Technical Cooperation for Development

The review session on Chapter IV took place on 15–16 April 2008. It addressed the implementation of the Monterrey Consensus commitments on Official Development Assistance (ODA), which included a target for developed nations of 0.7% of gross national product (GNP) as ODA to developing countries and 0.15 to 0.20% of GNP of developed countries to least developed countries.<sup>18</sup>

Delegates heard panel presentations and participated in interactive debates centred on the evolution of ODA since the adoption of the Monterrey Consensus. Developing countries cautioned that levels of ODA peaked in 2005 and have been declining since, and highlighted that most industrial nations are still missing the 0.7% target and would need to double the rate of ODA increase to meet the Gleneagles target of reaching US\$130 billion in 2010.

The USA pointed out that although ODA has increased at a faster rate than at any time in the past sixty years, approximately 85% of financial resource flows from the United States to the developing world are now private. "This is a dramatic shift from thirty years ago, when ODA equaled 70% of US flows to the developing world. The shift in relative importance of private flows underscores



Courtesy: UN

that ODA alone cannot achieve economic growth and poverty reduction". The USA is thus increasingly programming ODA to "leverage and support private sector actions and reaching out to private sector actors to improve coordination".<sup>19</sup>

The G-77 and China made specific requests regarding ODA, *inter alia*, to: give greater legal certainty to levels of ODA agreed by developed countries, giving commitments the status of legal obligations; create a performance record for both donors and recipients; and limit conditionality in ODA, in particular those requirements to procure goods and services from donors as part of ODA programmes.<sup>20</sup>

Canada, Australia and New Zealand highlighted the Paris Declaration on Aid Effectiveness and its targets including support for local ownership, alignment, harmonisation, management for development results and mutual accountability.<sup>21</sup>

The European Union noted the challenges of achieving aid effectiveness, finding innovative sources of financing for development and addressing global threats like climate change. Regarding the form of the new aid architecture, the European Union highlighted that private players are changing the aid landscape: providing significant sums of money to complement official aid, and operating largely outside official structures, dealing directly with local beneficiaries.<sup>22</sup>

The Outcome Document recognises that major efforts are still needed for achievement of the agreed development goals, including the Millennium Development Goals (MDGs). It highlights that to reach agreed timetables, developed countries should take urgent measures to increase the rate of aid disbursements and reach the 0.7% of GNP target. It also highlights that addressing the current high food and energy prices and implementing climate change-related actions "carries a deep developmental connection and makes it ever more urgent to fully meet all the pre-existing cooperation targets. This will require considerable additional resources".<sup>23</sup>

## Chapter V. External Debt

The review session on external debt took place on 10–11 March 2008, with countries focusing on debt relief efforts since the Monterrey Consensus and the shared responsibility of debtors and creditors in preventing and resolving unsustainable debt situations.<sup>24</sup> Many participants highlighted success in improving debt indicators on developing countries since 2002, although some expressed concern that 50% of highly indebted poor countries (HIPC) that had reached completion point, later slipped back into unsustainability or faced lawsuits by commercial creditors and "vulture funds".<sup>25</sup>

On debt sustainability, the US submission highlighted progress made in recent years including the development of a Debt Sustainability Framework for low-income countries in 2005, by the World Bank and the International Monetary Fund. Bangladesh, on behalf of Least Developed Countries (LDCs), however, cautioned during the debate, that LDCs are "stuck in a perpetual debt overhang" and have little room for manoeuvre in terms of

policy choices due to conditionality attached to debt restructuring programmes.

The United States also noted the risks placed by emerging creditors acting independently, and highlighted the need to engage new creditors in evaluating country-specific needs and structuring their financing accordingly. The US submission noted that substantial lending from emerging creditors to a number of African countries, for example, puts at risk the hard-won debt sustainability that initiatives like the HIPC Initiative and Multilateral Debt Relief Initiative (MDRI) achieved.<sup>26</sup> The European Union went further to recommend that "all lenders and borrowers should include debt sustainability considerations into their lending/borrowing decisions, making the best use of the guidance provided by the Debt Sustainability Framework..." with Japan adding that "all donors, including emerging donors, should cooperate to enhance the debt sustainability of developing countries".

Norway pointed out it is still the "only country not reporting bilateral debt cancellation as Official Development Assistance" making the case for new resources assigned for multilateral debt cancellation. Norway pointed out that the current state of affairs where funds to bilateral debt relief or multilateral debt cancellation are provided in lieu of ODA grants, leads to a situation where "poor indebted countries end up paying for their own debt relief".<sup>27</sup>

The Rio Group also called for further progress in establishing transparent mechanisms for risk analysis that take into account the need for developing countries to maintain policy options and space to foster their sustainable growth.<sup>28</sup>

UNCTAD cautioned that even with improved debt management and better and safer debt instruments, debt crises are bound to occur, and proposed the creation of a debt resolution mechanism aimed at guaranteeing a speedy solution to debt crises and a fair burden sharing among creditors and debtors. It also raised the issue of "odious debt", noting the need for further study of this controversial concept.<sup>29</sup>

The draft outcome document provides an overview of main issues affecting indebted countries, and focuses on the need to increase debt sustainability. It also acknowledges the need to address all relevant issues regarding external debt problems, including through new *ad hoc* forums with technical support from the Bretton Woods Institutions and the United Nations, and to consider, *inter alia*, "a sovereign debt work-out mechanism, enhancing the transparency and accountability of procedures of existing mechanisms, and the possibility of crafting more permanent debt mediation or arbitration mechanisms".

## Chapter VI. Coherence in the International Economic System to Promote Development

The review session on Chapter VI of the Monterrey Consensus entitled "Addressing systemic issues: enhancing the coherence and consistency of the international monetary, financial, and trading systems in support of development" (11–12 March 2008)<sup>30</sup> focused on coordi-

nation between the Bretton Woods Institutions and the UN, and governance reforms at the World Bank and IMF.

The United States highlighted progress made in promoting synergies among the UN and Bretton Woods Institutions, noting, however, that success remained elusive in combating corruption in developing countries and assistance to fragile states and LDCs.<sup>31</sup> The European Union proposed the international economic system should pay more attention to global and regional public goods such as achieving peace and security, tackling climate change, preventing the spread of infectious diseases and improving knowledge creation and management.<sup>32</sup>

Norway made reference to the importance of making financial institutions more transparent, inclusive and democratic, highlighting its commitment to strengthen democracy in the World Bank and the IMF, and in particular strengthen the Africa voice.<sup>33</sup>

The Rio Group called for strengthening the role of the multilateral banks and other global and regional mechanisms, while noting multilateral and bilateral partners should refrain from imposing conditions on developing countries that run counter to national development strategies.<sup>34</sup>

The Outcome Document reflects existing consensus on the need to continue promoting coherence and synergies in international finance and trade institutions, and suggests convening a major international conference to review the international financial and monetary architecture and global economic governance structures. In this regard it invites the International Monetary and Financial Committee to include this subject in the agenda of its next meetings, and to make appropriate recommendations to the IMF Board of Governors and the international community.<sup>35</sup>

## Conclusions

The review sessions provided a glance at progress made on finance for development in the past six years since the adoption of the Monterrey Consensus, evidencing a refinement in recipes for development and macro-economic success, with a perspective that seeks to leave behind one-size-fits-all approaches that failed to deliver results, by emphasising the “quality” of foreign direct investment, the “sustainability” of debt and the “decency” of labour standards. The follow-up to the Monterrey Consensus is thus less categorical, and riddled with statements on sound economic and financial policy designed to both resist external shocks and seduce foreign investors, while simultaneously promoting sustainable development and pro-poor economic growth.

The Doha Review Conference will take place at the end of 2008, ironically in a year where the failure of the WTO Doha Round of negotiations and a global food crisis and economic slowdown, have brought to the fore the distributional equity aspects of globalised financial and trade systems. As the rise in commodities and fuel prices benefits some developing countries, which are consistently breaking poverty barriers and providing the world with “good news” in terms of achievement of the Millen-

nium Development Goals, others less fortunate are hit hard with the consequences of increased food prices and global problems like climate change. The international development agenda is therefore gaining in complexity as it caters to different paths for development, is more respectful of governments’ policy space and focuses on improving existing procedures applicable to international financial relations, rather than prescribing any substantive change.

## Notes

- 1 Monterrey Consensus of the International Conference on Financing for Development, 18–22 March 2002. <http://www.un.org/esa/ffd/monterrey/MonterreyConsensus.pdf>.
- 2 A/RES/62/187.
- 3 A/63/179.
- 4 Submissions and documents can be found at: <http://www.un.org/esa/ffd/doha/chapter1/index.htm>.
- 5 Newsletter “The Road to Doha”, February 2008, p. 3. <http://www.un.org/esa/ffd/newsletter/index.htm>.
- 6 The European Union preliminary views on “Mobilizing domestic financial resources for development” (link in footnote 4).
- 7 US Government Submission (link in footnote 4).
- 8 Argentina, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, the Bolivarian Republic of Venezuela and the Dominican Republic.
- 9 “Elements of Interest of the member countries of the Group of Río...” (link in footnote 4).
- 10 UNGA, 2008, “Draft Outcome Document of the Follow-up International Conference on Financing for Development”, Document: A/CONF.212/CRP.1; paragraphs 4 and 7. [http://www.un.org/esa/ffd/doha/draftoutcome/DraftOutcomeDoc\\_English.pdf](http://www.un.org/esa/ffd/doha/draftoutcome/DraftOutcomeDoc_English.pdf).
- 11 Submissions and documents can be found at: <http://www.un.org/esa/ffd/doha/chapter2/index.htm>.
- 12 “Elements of Interest of the member countries of the Group of Río [...]” (link in footnote 11).
- 13 The European Union preliminary views on “Mobilizing international resources for development: foreign direct investment and other private flows” (link in footnote 11).
- 14 UNGA, 2008, *op. cit.*, paragraphs 14 and 17.
- 15 Submissions and documents can be found at: <http://www.un.org/esa/ffd/doha/chapter3/index.htm>.
- 16 CANZ Talking Points, 20 May 2008 (link in footnote 15).
- 17 UNGA, 2008, *op. cit.*, paragraph 27 (link in footnote 10).
- 18 Submissions and documents can be found at: <http://www.un.org/esa/ffd/doha/chapter4/index.htm>.
- 19 US Government Submission (link in footnote 18).
- 20 Statement on behalf of the Group of 77 and China, New York, 15 April 2008 (link in footnote 18).
- 21 Statement on behalf of Canada, Australia and New Zealand (CANZ), 15 April 2008 (link in footnote 18).
- 22 Statement on behalf of the European Union, 15 April 2008 (link in footnote 18).
- 23 UNGA, 2008, *op. cit.*, paragraph 33 (link in footnote 10).
- 24 Submissions and documents can be found at: <http://www.un.org/esa/ffd/doha/chapter5/index.htm>.
- 25 Newsletter “The Road to Doha”, March/April 2008 (link in footnote 5).
- 26 “US Submission: March 10–11 2008, Review Session on External Debt” (link in footnote 24).
- 27 Statement by Norway at the informal review session on Chapter V of the Monterrey Consensus: External Debt (link in footnote 24).
- 28 Points of interest to the countries of G-Río on the framework of the consultations concerning Chapter V of the Consensus of Monterrey: “External Debt” (link in footnote 24).
- 29 UNCTAD, 2008, “Review session on chapter V of the Monterrey Consensus: External Debt” (link in footnote 24).
- 30 Submissions and documents can be found at: <http://www.un.org/esa/ffd/doha/chapter6/index.htm>.
- 31 US Government Submission (link in footnote 30).
- 32 The European Union Submission (link in footnote 30).
- 33 Statement by Norway, 12 March 2008 (link in footnote 30).
- 34 Submission by the Rio Group (link in footnote 30).
- 35 UNGA, 2008, *op. cit.*, paragraph 58 (link in footnote 10).



## Cartagena Protocol / COP-MOP-4

### Discussions and Negotiations

#### – Follow-Up –

*This article provides a further report on the work of the Cartagena Protocol COP-MOP-4 held in Bonn, as a follow up to the brief notice included in Issue 38/4.*

In its fourth meeting, the CBD COP acting as Meeting of the Parties to the Cartagena Protocol (COP-MOP-4) experienced the sharp edges of many issues and challenges that have been canvassed in the past, but ultimately put off for future decision.<sup>1</sup> Most of the 18 decisions adopted are oriented around four key challenges:

- Coordination among the many different sectors concerned with genetically modified organisms;
- Development of rules and modalities on liability and redress – a task specifically assigned to the COP-MOP in the text of Protocol itself,<sup>2</sup> with the expectation that it would be completed at COP-MOP-1;
- Capacity-building; and
- Compliance.

#### Coordination among Interested Sectors

Intersectoral coordination was a thread running through the entire meeting, although specifically discussed only in one brief decision which merely called for continued efforts by the Executive Secretary to intensify formal agreements with other organisations regarding biosafety matters and protocol implementation (Decision UNEP/CBD/BS/COP-MOP/4/10). Far more important however, was the fact that other organisations, including but not limited to the FAO, WTO, ISO, Codex Alimentarius, WHO, UNDP, World Bank, numerous non-governmental and industrial groups and several regional bodies were specifically mentioned and often direct participants in substantive decisions, which focused on avoiding duplication and recognising the many varied interests and concerns reflected throughout international law and policy regarding living modified organisms (LMOs) (Decisions UNEP/CBD/BS/COP-MOP/4/3, 4 and 8). Perhaps most notable were the discussions regarding matters of identification of materials in transit, and of sampling and detection of LMOs that have not been formally declared and authorised. Work on this and other technical issues relating to the safety of LMOs, both for the environment and for human and animal health, has been undertaken in particular through WHO and the Codex Alimentarius.

These discussions appear to have increasingly recognised the need for a unified approach to LMO identification and packaging. This need arises out of the fact that many Parties are severely challenged by the need for coordinated national implementation of international instruments in areas of conservation, agricultural production, livelihoods, agricultural industries, food production, pharmaceutical development and those focused primarily on human and animal health. While some would call on the

Protocol to become the single source of answers to all of these issues, others recognise the predominance of FAO, WTO and WHO in areas well outside the specialised expertise housed in UNEP and the CBD.



GloFish fluorescent fish

Courtesy: Wikipedia

As noted in numerous interventions and side events, the level of national attention normally given to LMO issues and regulation is low no matter which sector is proposing that legislation, suggesting that the only way to develop a workable mechanism for oversight of LMO transportation, introduction and use will be through a coalition of all relevant international instruments and their various national sectoral agencies. Ultimately, this coordination will also alleviate the current inconsistencies in national implementation arising from one sector's dominance in LMO-related matters within one country, while a different sector may dominate those same matters in that country's trading partner.

#### Liability and Redress

As noted by several commentators, negotiations regarding liability and redress have continued to dominate discussions within the Protocol, since April 2005, when the first of the five meetings of the Working Group on this issue was held. By the end of the fifth Meeting, the Working Group had made some progress, but was far from the "elaboration of international rules and procedures in the field of liability and redress for damage resulting from transboundary movement of LMOs", which the Parties were required to complete by 2004.<sup>3</sup> Consequently, although unable to take a final decision, or to negotiate as a plenary body, the COP-MOP proceeded to engage in detailed negotiations on liability and redress through an appointed group of Friends of the Chair (and a contact

group with the same membership), which met primarily in open session, but occasionally behind closed doors throughout the COP-MOP.

Negotiations of this issue demonstrate not only the wide divergence among the parties regarding the impact of LMOs and the nature of the damage they might cause, but more especially a clear difference among countries regarding the nature of their various legal systems. Indeed, when these discussions almost completely broke down near the end of the week, the underlying cause was not predominantly ideology about LMOs, but rather differences of legal approach. When a group of countries presented a draft document, as part of an effort to jumpstart the flagging negotiations, it was countries whose legal systems rely on legal certainty and “strict” judicial and other interpretation of legal rules and principles (primarily developed countries) who objected. One of the primary bases for their objection was that the proposal did not have the level of legal clarity necessary in order to be applied by courts, agencies and contractual parties in those countries. The original proponents, all countries whose legal systems operate more flexibly, were incensed by this claim, at one point threatening to adopt the proposal without the involvement of the opponents.

Other questions, which were the focus of much contention throughout the meeting, were directly relevant to this same split in legal approach. Of these, perhaps the most difficult was the long and sometimes heated debate over whether the liability and redress mechanism should be “legally binding” or non-binding – a distinction which most parties interpreted as “mandatory” or “voluntary”. This question took up a large part of the attention of the FOC group, but seemed to involve a variety of different understandings of what “legally binding” should mean – in some cases focusing on the level of Parties, and in others on the individuals engaging in the creation, introduction and/or transportation of LMOs.

As a consequence, a variety of options were proposed in an abstract way, without focusing on how they could be produced or what they could say. Such proposals included (i) making the civil liability regime legally binding, (ii) making only the administrative regime legally binding, (iii) creating guidelines only, and (iv) developing a two-step approach (*i.e.*, starting with guidelines and re-considering the need for additional provisions, after the guidelines have been in effect for some years). A large portion of the most difficult discussions focused on matters such as enforcement of foreign judgments, which are governed by existing and entrenched domestic law, and not likely to be changed (*i.e.*, something to conform to, rather than something to negotiate anew).

Ultimately, it was generally agreed that progress had been made, but that progress was primarily found in the willingness of all delegates to allow work to go forward on all of the possible approaches – *i.e.*, to delay choosing an approach and commencing the process of refining it. The final decision was to continue to work on the Liability and Redress issue through a “closed-ended” “Group of Friends of the Co-Chairs”, rather than a Working Group or Expert Panel.

## Capacity

Like cooperation, the overarching issue of capacity and the needs and costs of capacity developing permeated the entire COP-MOP meeting. In addition to a basic decision on continued efforts at capacity building (Decision UNEP/CBD/BS/COP-MOP/4/6), decisions on the Biosafety Clearinghouse ((Decision UNEP/CBD/BS/COP-MOP/4/5), roster of biosafety experts (Decision UNEP/CBD/BS/COP-MOP/4/15), Financial Mechanism (GEF) (Decision UNEP/CBD/BS/COP-MOP/4/14), budget (Decision UNEP/CBD/BS/COP-MOP/4/19), socio-economic matters (Decision UNEP/CBD/BS/COP-MOP/4/9), public participation (Decision UNEP/CBD/BS/COP-MOP/4/11), national reporting (Decision UNEP/CBD/BS/COP-MOP/4/13), the upcoming assessment of the effectiveness of the protocol (Decision UNEP/CBD/BS/COP-MOP/4/16) and the development of subsidiary bodies (Decision UNEP/CBD/BS/COP-MOP/4/17) all focused intensively on capacity-building issues, and were directly or indirectly linked to financial constraints. For example, a proposal to create a permanent Subsidiary Body on Scientific, Technical and Technological Advice for the Protocol was ultimately altered to recommend the continued use of Ad-hoc Technical Expert Groups to address and resolve technical issues, as a cost control measure.

## Compliance

Finally, the ongoing question of compliance with international agreements faced many practical challenges in this meeting, ranging from the challenge of developing and imposing notifications and notification modalities required under the Protocol (a mandatory process which most delegates agreed to be non-functional at present) (Decision UNEP/CBD/BS/COP-MOP/4/7), to the challenges faced by the Compliance Committee as a result of the failure of most countries to submit their national reports as required.<sup>4</sup>

The legally fascinating issue of the development of “procedures for addressing repeated non-compliance”, was left for future decision, based on the need to wait until “experience may justify” the need to address this issue. Similarly, although the COP-MOP called on countries to take action to satisfy the Protocol’s heretofore unrealised expectation that parties will “adopt appropriate domestic measures to address and report illegal transboundary movement of LMOs” it has not addressed the basic problem underlying lack of compliance with this requirement – the lack of an effective legal mechanism for accomplishing it. (TRY)

## Notes

1 The official report of COP-MOP 4 is now posted on the CBD website at <http://www.cbd.int/doc/meetings/bs/mop-04/official/mop-of-18-en.pdf>.

2 Cartagena Protocol, art. 27.

3 The Cartagena Protocol, at Art. 27, required such a process to be commenced at the first meeting of the COP-MOP and completed within four years thereafter.

4 Although legally separate, this issue relates closely to a similar problem in the Biosafety Clearinghouse (BCH). This mechanism was originally seen as a major tool for transfer and utilisation of information and experience among countries, but most discussions in COP-MOP-4 focused on the fact that the BCH database is still inadequately populated to achieve its purpose, and that much of the data it contains was not provided by the countries, but by the recent 140-country UNEP-GEF Biosafety Capacity-building Project, or perhaps harvested by Protocol staff from other databases, such as ECOLEX.

## CITES

# Standing Committee Addresses High-profile Species Issues

by Rebecca Paveley\*

The 57<sup>th</sup> meeting of the Standing Committee for the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) took place in Geneva, Switzerland, from 14–18 July 2008. Delegates faced up to a complex agenda, with many working groups formed across the week to debate issues such as CITES and livelihoods; breeding tigers on a commercial scale and the Monitoring of the Illegal Killing of Elephants (MIKE) programme, amongst others. Dominating the meeting once again was the issue of protection of the elephant, and particularly the one-off trade in stockpiled ivory from Botswana, Namibia, South Africa and Zimbabwe. The Secretariat's decision to designate China as an ivory trading party caused both consternation and

subject to domestic regulation by a Party requesting the cooperation of others to control international trade.

## Strategic Vision 2008–2013

The Secretariat called for a working group to be set up to draw up three or four indicators per objective for the Strategic Vision. While delegates agreed to create this group, there was disagreement over the suggestion that participation in it should be limited to those parties who had submitted written comments on the issue. Many parties, including the EC, China, Brazil and Ghana called for open participation. This demand was met and the group met throughout the week, reporting back on the last day with a list of three indicators per Strategic Vision goal. These were adopted by the Standing Committee.

## Budget and Programme of Work

COP 14 tasked this committee with establishing the terms of reference for a sub-committee on finance and budget. The sub-committee was set up and ordered to review the costed programme of work for 2009–2011 in order to prioritise activities. The six per cent increase in CITES budget for the next two years does not cover all the activities so far outlined. There was heated debate over a proposal referring to basing the costed programme of work on the anticipated 92.2 per cent collection rate, rather than a 100 per cent rate. Some parties feared that this would send the wrong signal to parties in arrears with their contributions. Chair Maquieira (Chile) called for discussions on this to continue in informal consultations and after these were held, an amended text was produced and agreed upon. This asked the sub-committee to work with the Secretariat to prepare revised financial plans, as necessary.

## Enforcement

The Secretariat provided an oral update on enforcement of the Convention: it reported that Paraguay was implementing its action plan to enforce CITES and hoped it would soon agree that it was appropriate to withdraw its voluntary trade moratorium, though there is still some concern about crocodilian skin exports. A mission to Saudi Arabia has been agreed to assess its implementation. A mission to Egypt was completed last year and there was extensive debate over this, with concern expressed about the illegal trade in primates and ivory which has affected Egypt. Conservation groups proposed a mission to Nigeria, saying that the transport of great apes through Nigeria was a loophole which needed to be addressed.

Progress made by Madagascar was also discussed, and the Secretariat encouraged Madagascar to focus on tagging and identification of crocodile skins. ➔



L-R: CITES Secretary-General Willem Wijnstekers and SC Chair Cristian Maquieira ready to start the meeting  
Courtesy: IISD

fury in some quarters. The meeting also worked on indicators for the Strategic vision for 2008–2013 and the budget, as well as reviewing conservation of species such as great apes, the tiger, rhinoceros, and flora including ramin and bigleaf mahogany.

## Background

The international wildlife trade is estimated to be worth billions of dollars annually and the illegal part of the trade thought to be second only to the illegal drugs trade. CITES was established to try and safeguard those species considered endangered for the future. The Convention today protects approximately 5,000 plant species and 28,000 animal species. The species are listed according to three Appendices to the Convention: Appendix I lists species endangered due to the international trade, trade in which is permitted only in exceptional circumstances; Appendix II species are those at risk of becoming endangered if their trade is not regulated; and Appendix III species are

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## Elephants and the Ivory Trade

CITES banned the trade in ivory in 1989. Some eight years later, declaring that some elephant populations were healthy and well managed, it allowed a one-off sale of ivory stockpiles in Botswana, Namibia and Zimbabwe. The \$5 million raised went to elephant conservation. Another such one-off sale of 108 tons of ivory – equivalent to around 11,000 tusks (1) – was agreed in principle last year. The contentious issue for this meeting was the application by China to be designated a trading partner in ivory. Previously only Japan had that status. China has attempted now for several years to get this status, having a huge market in ivory, which is used for trinkets, name seals and polished ivory tusks. It argued – successfully – to the Secretariat that it has measures in place to identify when illegal ivory enters the country and ensure it does not transfer to the legal ivory market. SC57 recommended that China be approved as a trading partner, hoping that by allowing it to trade legally in ivory, poaching may be reduced. But many other parties disagreed – including Australia, Ghana and Kenya as well as conservation groups – arguing that the three-day mission to China to investigate the measures in place to halt illegal ivory sales was too short and lacking in detail for any concrete conclusions to be drawn. Furthermore, the Species Survival Network said that by allowing China as an importing partner, the resulting competition would inflate prices and only serve to increase elephant poaching. But a vote was taken and China was designated a trading partner by nine votes to three, with two abstentions.

Kenya outlined a project to monitor the effects of the sale through a nine-year study, which will track the ivory through DNA samples.

Several parties stressed the importance of ensuring that the proceeds of the one-off sale go into conservation. The UK expressed concern about whether this was possible in Zimbabwe, given the current political situation, but the SC chair said that the committee had no mandate to address the terms of the sale, apart from designating China as a trading partner.

## Great Apes

Malaysia was praised for its work in relation to orang-utans and the synergy it had achieved with tourism at Sabah and Sarawak. The Secretariat then suggested cutting the requirement for a regular review on the conservation of



The Malaysian delegation listens to the Secretariat's praise of its Orang-utan rehabilitation centres in Sabah and Sarawak  
Courtesy: IISD

and trade in great apes, but this was fiercely rejected by a number of parties.

## Tigers

The failure of six of the 14 tiger range states to report on their progress in protecting tigers was met with concern. Even those who had submitted reports had failed to



A South China Tiger with kill

Courtesy: Wikipedia

provide very comprehensive information, some delegates complained. Action to halt the decline in tiger numbers – which have dwindled fast in recent years, with fewer than 3,000 remaining in the wild thanks to poaching, trafficking and habitat loss – was demanded urgently. The Secretariat recommended organising specialised law enforcement intelligence training for tiger range States and convening a summit of high level police and Customs officials.

The World Wildlife Fund, on behalf of all NGOs present, called for a cessation of all trade in tiger parts and derivatives throughout the world. The United States drew attention to unconfirmed reports that “tiger farms” which intensively breed tigers, have been connected with the illegal exports of tiger bone wine.

## Action on Other Flora and Fauna

A report on rhinoceroses gave a bleak outlook for the species, with news that highly organised poaching is on the increase, fed by a thriving illegal trade in rhinoceros horns. It was agreed a CITES taskforce on rhinoceroses should be set up.

Peru was praised for its conservation of bigleaf mahogany and there was discussion of the trade in ramin.

Parties left SC57 with much intersessional work to get through before COP 15, scheduled for Qatar, in early 2010. Much of the world's attention is expected to continue to remain, for the next couple of years, on the trade in ivory and the one-off sale, as well as the continued threat to the survival of those big stars of the animal kingdom, the wild elephant and the tiger.

## Kyoto Protocol

### Mixed Signals in Accra

by Joanna Depledge\*

The latest *rendezvous* in the busy schedule of climate change meetings took place in Accra, Ghana, 21–27 August 2008. In parallel meetings of the third session of the Ad Hoc Working Group on Long-Term Cooperative Action under the Convention (AWGLCA) and the sixth session (part I) of the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWGKP),<sup>1</sup> delegates continued work on a comprehensive agreement on the future of the climate change regime, due to be finalised in Copenhagen in December 2009.

#### AWGLCA

The work of the AWGLCA for 2008 is focused on thematic workshops, aimed at exploring specific topics in a more informal environment. For this session, workshops were scheduled on “cooperative sectoral approaches and sector-specific actions” and reducing emissions from deforestation and forest degradation (REDD). Discussions at the workshop on sectoral approaches saw a distinct thawing in the frosty atmosphere surrounding the topic, following a poorly received proposal from Japan at AWGLCA 1 (see *EPL* 38/4, pp. 194–200). One of the problems is uncertainty over what “cooperative sectoral approaches and sector-specific actions” would actually entail, which the workshop did little to clarify. Discussions at the workshop<sup>2</sup> seemed to open up a Pandora’s Box of possibilities, including technology cooperation agreements focussed on specific industrial sectors, and nationally appropriate voluntary actions by developing countries to tackle emissions in particular sectors. Perhaps ironically, the establishment of transnational sectoral agreements as a way of engaging developing countries – the main intent behind the Japanese proposal – was widely rebuffed once again. It was similarly “generally agreed” that sectoral approaches should not replace the national emissions targets of Annex I Parties (developed countries), another concern that had been provoked – rightly or wrongly – by the Japanese proposal. The main achievement of the workshop was thus to dampen down – at least temporarily – a political controversy that threatened to damage the negotiations. Discussions on sectoral approaches could now take a more constructive turn.

The workshop on REDD also prompted a constructive set of discussions, with concrete proposals put forward on how positive incentives for reducing emissions from deforestation and forest degradation might actually work on the ground. An important point raised by several developing countries, especially Brazil, was that REDD actions should be additional to the emission cuts of Annex I Parties, and not be allowed to offset emissions in those countries (as happens under the CDM). One proposal put

forward was for a fund generated by levies on air and maritime transport, or the auctioning of emissions allowances for the aviation sector. Levies on the logging industry were also suggested.

For the first time in the AWGLCA, three contact groups were established to discuss core issues on its agenda – mitigation, adaptation, and finance and technology transfer – in more depth. (The Umbrella Group<sup>3</sup> initially opposed forming a separate group on institutional arrangements for finance/technology transfer). Discussions on all three topics are still at an early stage, with delegations still staking out their positions and feeling their way. Unsurprisingly, therefore, there was little sign of any substantive movement, with the ancient gulf between developed and developing countries continuing to dominate the political dynamics, especially on the key question of mitigation. The G-77, for example, expressed its well-known opposition to any further differentiation among developing countries in the Copenhagen deal, while developed countries maintained such differentiation would be needed. Similarly, while developed countries argued that the AWGLCA’s work should result in new legal obligations for all Parties, probably involving an amendment to the Convention, many developing countries insisted that the AWGLCA should focus only on implementing the existing Convention, and had no mandate to discuss amendments (similar disputes over mandates took place in the AWGKP).

Discussions on adaptation and finance/technology transfer were somewhat more constructive, helped by the variety of concrete (if divergent) proposals already floated on these topics (see *EPL*, *op. cit.*). In Accra, the G-77 put forward in writing its long-standing demands for a dedicated financial mechanism under the Convention that would not involve the Global Environment Facility. Under the G-77 proposal, the new mechanism would have its own representative governing board and supporting staff, and would receive contributions from Annex I Parties amounting to 0.5–1% of their GNP. This emphasis on public funding is a far cry from the “innovative financing” and private sector approaches championed by donor countries.

The prime achievement of the AWGLCA was to mandate Chair Luiz Figueiredo Machado (Brazil) to prepare a “document assembling the ideas and proposals presented by Parties” up to 30 September 2008 (with an update to include later submissions). Given that over 100 pages of formal proposals have already been submitted so far,<sup>4</sup> and an avalanche of new text is expected in September, this is not an inconsiderable task. It is also a highly significant one: any serious negotiation requires a negotiating text to work from, and this “document” should be seen as a precursor to a full negotiating text, which will hopefully be mandated at the next AWGLCA. Encouragingly, the

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AWGLCA also determined that it would “shift into full negotiating mode” in 2009.

### AWGKP

The AWGKP continued its work on the means of implementing emissions targets, notably on the market-based mechanisms – emissions trading, the clean development mechanism (CDM) and joint implementation (JI) – and provisions in the land use, land-use change and forestry (LULUCF) sector. On both these topics, delegates focussed on streamlining lists of key questions and options. On the mechanisms, delegates distinguished between options having “potentially significant implications” (dubbed “big ticket” issues) and “others” likely to be less significant. The former (much longer) list includes, for example, whether to allow nuclear power, and carbon capture and storage activities under the CDM and JI. The latter list includes, for example, possible changes to the structure of the boards governing the CDM and JI. Needless to say, prioritising issues in this way was not merely a technical exercise. There was considerable dispute, for example, over whether the option of extending the CDM’s “adaptation levy” also to JI and emissions trading should feature as a “big ticket” issue, and therefore receive priority in the negotiations; it was eventually accepted as such. Following time-consuming squabbling over the AWGKP’s mandate to discuss possible amendments to the Protocol, options deemed to require a Protocol amendment were highlighted. On LULUCF, delegates organised proposals into four “packages of options”, structured around different methods of accounting for changes in land use and forestry. Each package sets out clearly the revisions that would be involved to the existing rules on LULUCF.

Methodological issues also featured strongly. Here, delegates were able to reach perhaps the only substantive consensus of the session, namely, to continue the “basket approach” (whereby all greenhouse gases covered by the Protocol are aggregated). This may not seem like a big deal, but any consensus should be celebrated, in a context where everything appears up for grabs and nothing can be taken for granted. The AWGKP, for example, is even discussing whether to replace Global Warming Potentials (the standard methodology used to calculate the equivalence of greenhouse gases) with the far less well-established methodology of Global Temperature Potentials, despite the absence of any compelling reason for doing so. A contact group was also convened on the “spillover” effects of emission reduction policies, with the potential impacts of biofuels receiving considerable attention.

Perhaps the most momentous event to occur in Accra was the announcement by South Korea, in the AWGLCA and press conferences, that it “would like to play a bridging role” between developing and developed countries, and would adopt a national emissions target for 2020.<sup>5</sup> The level of the target will be announced next year, and could even amount to an absolute cut in emissions, not just a slow-down in their rise. Such leadership by South Korea could have tremendous significance for the negotiations. There are several countries outside Annex I who, like South Korea, have reached a level of development that might permit them to

take on some form of emissions obligation and, as they are not members of the G-77, have fewer ideological and political barriers to doing so. Mexico is the other prime example. In another highly significant moment, South Africa also announced, in the run-up to Accra, that it would aim to halt the growth in its emissions, at the latest by 2020 to 2025.<sup>6</sup> Interestingly, as a G-77 member, South Africa received criticism from some quarters for allegedly fomenting disunity within Africa and within the Group.<sup>7</sup>

An overall assessment of the Accra climate change meetings faces the dilemma of the glass half full, or half empty. Optimists would point out that the AWGLCA mandate to prepare a Chair’s document indicates that the road towards Copenhagen is on track, and that the massive complexity of the negotiating process is under control. Lack of substantive progress should come as no surprise at this stage, especially given the uncertainty over the future US President and US position. Creative proposals are being put forward and difficult issues aired, while the South Korean and South African announcements represent exciting confidence boosters.

Pessimists, however, would have no difficulty in finding evidence to support their case, not least the apparent entrenchment of long-standing positions. The divide between the G-77 and developed countries that has plagued the climate change regime throughout its history appears as wide, and as fundamental, as ever. It is difficult, for example, to imagine a meaningful outcome on developing country actions that would *not* result in an amendment to the Convention; the suggestion by the G-77 that the AWGLCA has no mandate to draft amendments is therefore troubling indeed. Similarly, the objection by the Umbrella Group to setting up a separate contact group on finance/technology transfer suggests a depressing lack of goodwill and understanding of developing country concerns. Moreover, although the mandate for a Chair’s document was agreed, this was the least of three options put to Parties: the preparation of a full negotiating text, or of a non-paper containing possible elements for a Copenhagen agreement, were both rejected in Accra.

The next major stopping point on the road to Copenhagen will be in Poznan, Poland, in early December 2008. By then, the identity of the next US President will be known. Although he will not yet be in office, this should start to dismantle at least one of the barriers – and excuses – for slow progress. The optimists may yet win the day.

### Notes

1 The AWGLCA is tasked with negotiating new actions for developing countries, and new commitments/actions for developed countries, under the Convention. The AWGKP’s mandate is to negotiate the next round of emission targets for developed countries (Annex I Parties) under the Kyoto Protocol.

2 See FCCC/AWGLCA/2008/CRP.4.

3 A loose coalition of non-EU developed countries.

4 See FCCC/AWGLCA/2008/MISC.2 and Add.1.

5 S. Korea seeks wider climate role with 2020 goals, 23 August 2008. At <http://africa.reuters.com/wire/news/usnLN391237.html>.

6 S. Africa’s ambitious climate change strategy may include carbon tax, 2 August 2008. At <http://afp.google.com/article/ALeqM5hIO7s2aaCenJjVPFvtiTiVoEWsQ>.

7 S. Africa criticised for unilateral commitment to set climate targets, 27 August 2008. At <http://www.africqueline.fr/s%10africa-criticised-for-unilateral-commitment-to-set-climate-targets-2008082711580.html>.