
The law enforcement experts urged the United Nations Environment Programme (UNEP) to take a leading role in coordinating efforts to combat the various types of illegal cross-border trade. During discussions, UNEP noted that environmental crime “is becoming a serious global problem, even though the immediate consequences of an offence may not be obvious or severe.” The “cumulative costs in environmental damage and the long-range toll in illness, injury, death, and extinction of biodiversity and continued depletion of the ozone layer may be considerable.” Among the experts’ recommendations was the establishment of a liaison unit at UNEP to improve coordination and cooperation among convention secretariats, national law enforcement authorities, and international bodies such as the World Customs Union and the International Criminal Police Organisation (Interpol).

The experts also called for improved interagency coordination for the detection, investigation, and prevention of illegal trade and traffic as well as regular exchanges of information to promote compliance with international agreements.

Countries that are Parties to the above Agreements were also encouraged to strengthen national laws against illegal trade under the three Conventions and to review existing border control measures with the aim of strengthening and improving prevention and detection capabilities.

In addition, the experts called for new scientific research to determine the extent, magnitude, and nature of illegal trade under the said Conventions.

In a background paper presented to the workshop, UNEP noted that the incidence of environmental crime has grown recently, partly because the implementation of new international environmental agreements has provided new opportunities for evasion and also because greater public and governmental awareness has led to more investigations into the issue.

Other recent developments have contributed to the increase. These include the global trend towards trade liberalisation and de-regulation, the economic upheaval in the former Soviet bloc and the rise of organised crime there, the increased participation in environmental agreements by developing countries that lack adequate implementation mechanisms, and the growth of transnational corporations among which regulations are difficult to enforce.

**IT-LOS**

**Bluefin Tuna: Provisional Measures Prescribed**

On 27 August, the International Tribunal for the Law of the Sea issued its Order in the Requests for the prescription of provisional measures in the Southern Bluefin Tuna Cases (see last issue at page 248).

The Tribunal prescribed five provisional measures and ordered the parties each to submit an initial report on the steps they have taken, or propose to take, in order to ensure prompt compliance with the measures prescribed. The report is to be submitted not later than 6 October 1999. The Tribunal also decided that the Registrar of the Tribunal should notify all States that are involved in the fishery for Southern Bluefin Tuna that are Parties to the United Nations Convention on the Law of the Sea of the Order.

The Tribunal, after it had found that it had jurisdiction over the disputes, prescribed the following provisional measures:

- **Parties to prevent aggravation or extension of the dispute**
  By 20 votes to 2, the Tribunal decided that Australia, Japan and New Zealand shall each ensure that no action is taken which might aggravate or extend the disputes submitted to the arbitral tribunal.

- **Parties to prevent prejudice to the decision on the merits**
  By 20 votes to 2, the Tribunal decided that Australia, Japan and New Zealand shall each ensure that no action is taken which might prejudice the carrying out of any decision on the merits which the arbitral tribunal may render.

- **Parties to keep catches to levels last agreed**
  By 18 votes to 4, the Tribunal decided that Australia, Japan and New Zealand shall ensure, unless they agree otherwise, that their annual catches do not exceed the annual national allocations at the levels last agreed by the parties of 5,265 tonnes, 6,065 tonnes and 420 tonnes, respectively; in calculating the annual catches for 1999 and 2000, and without prejudice to any decision of the arbitral tribunal, account shall be taken of the catch during 1999 as part of an experimental fishing programme.

- **Parties to refrain from conducting an experimental fishing programme**
  By 20 votes to 2, the Tribunal decided that Australia, Japan and New Zealand shall each refrain from conducting an experimental fishing programme involving the taking of a catch of Southern Bluefin Tuna, except with the agreement of the other parties or unless the
experimental catch is counted against its annual national allocation.

- **Parties to resume negotiations**
  By 21 votes to 1, the Tribunal decided that Australia, Japan and New Zealand should resume negotiations without delay with a view to reaching agreement on measures for the conservation and management of Southern Bluefin Tuna.

- **Parties to seek agreement with others engaged in fishing for Southern Bluefin Tuna**
  By 20 votes to 2, the Tribunal decided that Australia, Japan and New Zealand should make further efforts to reach agreement with other States and fishing entities engaged in fishing for Southern Bluefin Tuna, with a view to ensuring conservation and promoting the objective of optimum utilisation of the stock.

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### ICC

#### Progress On Operational Rules

The Preparatory Commission (PrepCom) for the International Criminal Court (ICC) concluded its second, three-week session in August, during which it made considerable progress on the rules concerning the operation of the court.

PrepCom working groups addressed a number of issues including the organisation and administration of the court, rules relating to investigation, prosecution, trial, appeal and review, war crimes and the crime of aggression. Also, in line with a resolution of the General Assembly, the PrepCom undertook consultations on the acceptability of the ICC to the United States. PrepCom decided to set up a working group to define aggression. Without a proper definition, the Commission said, the court's reputation could be damaged. Jurisdiction over aggression will be established once agreement is reached on a definition.

The PrepCom concluded that procedural rules are a key to credibility. Judge Gabrielle Kirk McDonald, President of the International Criminal Tribunal for the former Yugoslavia, said that "For an international criminal court to have credibility, its rules must address the actual circumstances and cases that it confront(s) on a daily basis." One of the most important lessons learned by that tribunal, she told the PrepCom, was about the role the judges played in the rule-making process.

The ICC, already ratified by four countries, will begin to function once its statute is ratified by 60 States. The treaty establishing the court, the Rome Statute, has been approved by 120 countries and signed by 84.

The International Criminal Court will be a permanent international tribunal that will investigate and bring to justice individuals (not States) who commit the most serious crimes of concern to the international community such as genocide, war crimes and crimes against humanity. These include widespread murder of civilians, torture and mass rape. The ICC will complement national legal systems and will assume jurisdiction only after national courts have shown themselves unwilling or unable to prosecute.

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### OTHER INTERNATIONAL DEVELOPMENTS

#### NAFTA

#### CEC: Decisions on Programme Plan

**Background**

When Canada, Mexico and the United States established the North American Free Trade Agreement (NAFTA), they also agreed on an environmental side accord, the North American Agreement on Environmental Cooperation (NAAEC). The NAAEC was created...