ience”. At the IMO Assembly, the issue was raised again by a representative of the United Nations Secretariat, who drew the Assembly’s attention to the request of the CSD in paragraph 35(a) of the Report of its Seventh Session and its endorsement by the General Assembly in Resolution A/54/32. Although no action was taken at that time, the question of the collaboration of IMO with other UN bodies in addressing the problem of IUU will be considered by IMO at various committee meetings in 2000.

3. Protection of the Marine Environment from Land-based Activities

As one of the measures for the implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities (GPA), the United Nations General Assembly, in Resolution 51/189, called upon IMO to develop a clearing-house mechanism for oil and litter in the marine environment. Because the IMO’s mandate extends only to the protection of the marine environment from ship-based activities, and because there were no additional funds to work on land-based activities, the 20th Assembly had decided that it was not in a position to undertake this task. However, in 1999, Canada informed the 21st Assembly that, in response to the UN’s request, it was collaborating with the IMO Secretariat to prepare a pilot scale GPA clearing-house for oil and litter, compatible with both the GPA and IMO electronic information systems. The pilot project would be completed by the end of January 2000, after which a decision on future co-operation would be made.


Although the London Convention 1972 is not an IMO convention, IMO provides the secretariat for the London Convention and accommodates most LC meetings.

Because of severe budgetary problems, it was suggested by IMO Council that the Organisation might consider ceasing to fund the London Convention Secretariat. When the issue was briefly discussed at the 1999 Consultative Meeting of the Parties to the Convention and at IMO Assembly, most delegations which spoke were strongly against the proposal. They pointed out that, from a legal point of view, both the 1972 Convention and the 1996 Protocol stipulated that secretariat functions be provided by IMO. No one had ever questioned this before. Second, from a practical perspective, the work of the LC was related to that of IMO, because most dumping was of material from dredging ports and harbours to make them more accessible to ships. Finally, the LC secretariat also functions as an integral part of the IMO Marine Environment Division providing services to IMO generally.

Discussions will continue at both LC and IMO meetings in 2000.

Conclusion

Although IMO accomplished a great deal in 1999, many important issues remain unresolved, including the problem of alien organisms in ballast water, for which a solution appears increasingly elusive. Moreover, proposals for new items on the work programme and for cooperation with other UN bodies are proving to be a considerable challenge for an already overburdened organisation. Finally, the Erika oil pollution disaster at the very end of 1999 has already provoked calls for new measures to prevent and combat oil pollution. Clearly, interesting times lie ahead.

UNEPA

MEAs: Working Group on Compliance and Enforcement

Introduction


In accordance with the requirements of the Montevideo II Programme, related to promotion of effective implementation of international legal instruments in the field of the environment, the Executive Director called for a number of activities by the UNEP Secretariat in these fields including organisation by UNEP of the Workshop on Enforcement of and Compliance with Multilateral Environmental Agreements (MEAs), which took place in Geneva in July 1999.

By his letter to Governments of 23 August 1999, the Executive Director informed countries about the outcome of the July 1999 meeting and stated that the issue of compliance and enforcement would be accorded a particular degree of attention in the 2000-2001 UNEP Programme for the Development and Periodic Review of Environmental Law for the first decade of the new millennium.
Accordingly, the UNEP Division of Policy Development and Law was requested to undertake follow-up activities to the Workshop resulting in the Unit on Compliance and Enforcement of Environmental Conventions being created within this Division.

In his letter of 10 September 1999, the Executive Director referred to the Recommendations of the Workshop and requested countries to identify their enforcement contacts. He informed Governments that the preparations were underway for the development of Guidelines on co-operation at national, regional and global levels related to enforcement of, and compliance with MEAs and on prevention of environmental crime, as requested by the Workshop. The Executive Director also informed Governments that a Working Group of Experts on enforcement and implementation of environmental agreements was scheduled to meet in Geneva in autumn 1999, to discuss and initiate the development of the Guidelines on this subject.

The Preparatory Session

The Meeting was opened on 13 December 1999 by Donald Kaniaru, Chief, Legal, Economic and Other Instruments Branch and Acting Director, Division of Environmental Policy Implementation.

He emphasised the importance of the meeting as an integral part of the UNEP Montevideo II Programme. Given the fact that UNEP had facilitated negotiations of most environmental conventions and the development of environmental law for close to thirty years, it was now time, he stressed, for the governments to deal with problems of enforcement of, and compliance with MEAs to ensure their effective implementation.

Donald Kaniaru highlighted the serious problem environmental crime and illegal traffic posed for the world. He explained that this Preparatory Session was expected to present the outcome of its work to the First Meeting of the Working Group, scheduled for spring 2000, and the second meeting planned for autumn 2000. The progress of work will be reported to the 21st Session of the UNEP Governing Council for its further review and consideration.

Tomás Guardia (Panama, was nominated as Chairman of the Bureau. Agenda topics included, under item 5, the presentation of documentation for the meeting: Guidelines for Co-operation at National, Regional and Global Levels related to Enforcement, Compliance and Environmental Crime (UNEP/EC/WG.1/2); Global and Regional Conventions: Compliance Mechanisms and Dispute Settlement in Environmental Conventions (UNEP/EC/WG.1/3); and List of Enforcement Contacts (UNEP/EC/WG.1/4). Under item 6, Consideration of draft Guidelines for Co-operation at National, Regional and Global Level related to Enforcement, Compliance and Environmental Crime (UNEP/EC/WG.1/2) was foreseen. The Secretariat presented the documentation prepared for the meeting.

General Discussion

There was common agreement that the important issues in front of the Preparatory Meeting needed to be looked at in a coordinated approach. The experts agreed that there was a need to consider the direction of the Working Group’s future work and some of them particularly emphasised that special attention should be given to the issue of enforcement and environmental crime.

The representatives of the multilateral environmental agreements (MEAs), namely the Secretariat of the Ozone Convention and Montreal Protocol, the Convention on International Trade in Endangered Species (CITES), the Basel Convention and UNFCCC, pointed out that the documents prepared for the meeting reflected to a large extent the recognised need for the work on enforcement and compliance with MEAs. They also emphasised the need to prevent illegal traffic and environmental crime.

The opinion was expressed that it would be useful to identify the areas of agreement and/or disagreement in relation not only to the substance of enforcement, environmental crime and compliance, but also in relation to the definitions themselves.

Several experts suggested that the Draft Guidelines should avoid the use of negative connotations and include only positive activities and incentives which encourage compliance and enforcement of environmental conventions in the spirit of full cooperation, understanding and support.

Many experts referred to the urgent need to come up with internationally coordinated and concerted action to prevent and/or tackle environmental crime and illegal trade. They also referred to the initiatives of international organisations referring to compliance, enforcement and combating of environmental crime which took place not only at the 20th Session of the UNEP Governing Council but also in the UN Commission on Sustainable Development (CSD) and the G8. Experts emphasised that these issues, being both of an important and of a sensitive character, therefore need careful consideration.

The expert from Interpol referred to the activities of her organisation, namely to the signature of Memoranda of Understanding (MOUs) with CITES, WCO and the Basel Convention., meaning close co-operation with these organisations. Interpol has also developed a formatted ECO-message to be used by the National Central Bureaux (NCBs) to report cases of significance. In close co-operation with CITES, a practical guide enforcing the Convention has been finalised and will be sent to the 177 Member States in the four Interpol languages.

The expert from the World Trade Organisation (WTO) informed the meeting that WTO Members, through the Committee on Trade and Environment (CTE) have stated that MEAs are the best way to tackle global environmental concerns. The WTO Secretariat, together with the UNEP Secretariat, has recently agreed to work more closely together in the area of trade and environment. At this early stage of discussions concerning the development of guidelines for enforcement of and compliance with MEAs, the WTO representative commented that, in the context of the CTE, WTO Member States have been discussing trade measures pursuant to MEAs under its mandate. This discussion has been controversial, she said, and is still the topic of intense debate. This should be borne in mind when considering the draft guidelines for trade-
related sanctions and trade measures that will affect both parties and non-parties to MEAs. For example, on page seven of the draft guidelines, the section III B.4 refers to the exclusion of non-parties by limiting trade in controlled items. Quantitative restrictions, such as in this proposed guideline would, in accordance with the experts, not be in compliance with international trade law. The expert emphasised that the WTO Secretariat listens with great interest to how this Working Group will approach this important initiative to develop guidelines to improve enforcement of, and compliance with MEAs.

Several experts underlined their support for measures to enhance the capacity of the Parties to comply with MEAs, particularly in relation to developing countries, which need assistance in compliance, enforcement and prevention of environmental crime.

There was general agreement that the issues of compliance with MEAs and enforcement and environmental crime are quite different and therefore it would be useful to treat them separately.

Sub-Working Groups
Two sub-Working Groups were established by the Chairman: sub-Working Group I to deal with the issue of Compliance with MEAs under the Chairmanship of Iran and Gambia; and sub-Working Group II to deal with the issue of enforcement and environmental crime under the Chairmanship of Canada and the Czech Republic.

The majority of experts recommended to the Executive Director that, in order to assure the full participation of experts from the different geopolitical groups at the coming meetings of the Working Group, it is requested that the meeting of the Working Group be conducted in all six UN languages: i.e., Arabic, Chinese, English, French, Russian and Spanish. Use of the six UN languages should not, however, jeopardise the participation of experts from developing countries and countries with economies in transition at the meetings.

Recommendations of the Preparatory Meeting
It was recommended first, that the Secretariat include the comments on the documents presented by the sub-Working Groups and received in writing, into the documentation for the next meeting of the Working Group. Such comments to reach the Secretariat by 1 March 2000 to allow smooth preparation of the documentation. Second, in order to allow enough time for inclusion of written comments into the preparatory documents for the meeting, the Working Group should meet not earlier than around May 2000. If feasible, the Bureau will review the documentation prepared by the Secretariat at the beginning of April 2000. The agreed deadline for comments and proposals to be sent to the Secretariat was 1 March 2000; and the second meeting of the Working Group could be held in the Autumn of 2000. Third, according to the Rules of Procedure, the new Bureau will be elected at the meeting of the Working Group in May 2000.

Sub-Working Group I
This Group considered the scope of the Draft Guidelines on Compliance presented by the Secretariat and to the definition of Compliance. The meeting decided to look into the framework of future work on this issue.

The sub-Working Group suggested that the title of the document should be “Recommended Guidelines on Compliance with MEAs.” It proposed the following working definition of Compliance: “Compliance” is the position of a Party with regard to its obligations under MEAs. It refers to whether Parties fulfil their commitments under international agreements.

The Group agreed that written comments on the Draft Guidelines were to be sent to the Secretariat for further inclusion. The Parties made several very concrete proposals to the Guidelines which are to be included in the Draft Guidelines for the next meeting.

It was the understanding of the experts that the whole document is open for further corrections and changes.

Sub-Working Group II
This Group examined Sections IV and V of the draft guidelines on enforcement and environmental crime (UNEP/EC/WG.1/2) and the relevant parts of Section I (definitions).

The Group agreed that the most useful outcome of the deliberations would be a wider resource document encompassing elements of the draft guidelines paper, entitled: “Framework/Guidelines for Effective National Environmental Enforcement and International Co-operation and Coordination in Combating Environmental Crime.” This would be a separate document from the output of sub-Working Group I, dealing with compliance issues.

The document would contain the basic information on: context, scope, purpose, elements of national enforcement programme, international co-operation on combating environmental crime, and related guidelines. The document would also include appendices with useful reference information (including examples of good practice and case studies).

The Group stressed the importance of receiving comments from national governments and international organisations on the draft text before further redrafting. The text will be circulated and comments sought by 1 March 2000. Following comments, a revised draft will be circulated as a basis for discussion at the first Working Group meeting planned for May 2000.