

EDITORIAL

Guest Editorial

The Governing Council of UNEP suspended its 19th session in February, without taking any decision on Agenda item 4 (d) – “Governance of the United Nations Environment Programme [UNEP]”, largely because the special Open-ended Working Group on Governance dealing with this item failed to reach agreement on the related draft resolution (see pages 95 and 103).

At issue was the proposal to establish an inter-sessional committee, hopefully composed of ministers of the environment, which would provide guidance to UNEP’s Executive Director on, for instance, environmental policy. Some countries, however, worried that this committee might effectively down-grade the importance of the existing Committee of Permanent Representatives to UNEP with the establishment of a less representative body.

The result was that the Governing Council meeting ended somewhat in disarray, with the President of the Council hurriedly leaving the plenary chamber after suspending the session at around midnight of the last day.

It was assumed that this 19th session would reconvene when the elements of a compromise were in place. And so this resumed session met at UNEP headquarters in Nairobi on 3 April, ostensibly for one day.

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The Ninth Plenary on 4 April had before it copies of documents GC.19/L.69 on “The Reform of the United Nations Environment Programme” and GC.19/L.68 on “Governance of the United Nations Environment Programme”, both draft decisions submitted by the President of the Governing Council and dated 7 February, 1997.

At the opening, the President of the Governing Council simply announced that the plenary was suspended to allow the Working Group on Governance to finish its task and that the Tenth Plenary Meeting would take place when it had been accomplished. [In fact, this group had met until 3. a.m. the night before without any agreement.]

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The Working Group on Governance then met all morning, afternoon and evening of that Thursday. It had before it a proposal on governance by its Chairman, dated 4 March, which had been refined in a number of informal consultations in Geneva and Nairobi and which delegations agreed to take as the basis for negotiation.

I attended a good part of the afternoon session and it seemed to me that the discussion, under the chairmanship of the Romanian permanent representative, was rehashing the very same arguments advanced by both sides in February. These centred on a verbal proposal by the Europeans to establish the inter-sessional Committee of Ministers. [This later became an informal paper seeking to amend the Working Group’s informal basic paper of 3 April].

In addition, considerable time was devoted to repeated procedural matters on how best to utilise the time available to the Working Group. At times these became so heated that at one stage the

Russian representative described the atmosphere as that of a kindergarten, with some advocating a marathon all night meeting without any breaks.

In fact, the Working Group, and its smaller negotiating body, continued to meet unsuccessfully until around 8 p.m. that night discussing principally a name for the new high level committee, its membership, its role, the presence of the President of the Governing Council and Chairman of the Committee of Permanent Representatives at its meetings, its rules of procedure, its language/s of work, and how to finance it. In addition, developing countries were not happy with stipulation that members of the new committee should be "in charge of the environment" since not all of them had ministers of the environment as such.

Consequently, arrangements were hastily made for the resumed session of the Governing Council to continue for the following extra day.

The Working Group, more particularly its smaller body, continued to meet throughout Friday morning, afternoon and into the early evening, before this smaller body with much genuine relief reached agreement on a compromise text, establishing both the Ministerial Committee and strengthening the mandate of the Committee of Permanent Representatives, to be taken directly into the Plenary.

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The compromise text placed before the Tenth Plenary Meeting at 7:15 p.m. is contained in GC.19/L.71 entitled "Draft decision submitted by the Ad Hoc Working Group on Governance". The President immediately asked the Plenary to adopt this text and this was done by acclamation and with considerable hand-clapping.

However, the US representative then asked for the inclusion of the words "reform and" after "to make" in operative paragraph 1 (a). And this, in turn, caused the Algerian representative to request a five minute suspension of the Plenary so that the Group of 77 could meet to discuss this last minute, significant amendment.

It was not until nearly two hours later at 9 p.m. that Plenary reconvened with the Group of 77, reluctantly accepting the American amendment. However, before the amended text could be re-adopted, Russia challenged the procedure, ultimately forcing the Plenary to follow rule 46 requiring a two-thirds majority of those present and voting to re-open a matter decided at the same session. The results of the vote were: 31 present, with 26 voting to re-open the debate and one, Russia, opposed. Amended L.71 was again adopted without opposition (see page 158).

The Plenary then considered GC.19/L.72 entitled "Assessment of the functioning of the secretariat of the United Nations Environment Programme" advanced by the Group of 77 to enable the Committee of Permanent Representatives to assess UNEP's secretariat; a kind of further strengthening of the CPRs mandate. This in turn was amended by European Community countries to make both a preamble and substantive reference to Governing Council's resolution 19/22 concerning the report requested of the Executive Director on governance.

The resumed session of the Governing Council then adjourned at nearly mid-night of the additional day.

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The principal result of these two days is in document L.71. It records the Governing Council decision to establish a "High-level Committee of Ministers and Officials" as a subsidiary organ of the Governing Council. Reference to members being "in Charge of Environment" was dropped by

the European Community in a spirit of compromise in the Working Group. Similarly, a reference to this committee being "inter-sessional" was also deleted. However, it is to meet at least once a year. Paragraph 5, second line, "of the Committee" was added after "Meetings".

The word "henceforth" was interjected in the third line of paragraph 7 between "have" and "the" to make it clear that what follows is indeed a new mandate for the Committee of Permanent Representatives with the requirement to meet four times a year.

Paragraph 8, first line, "the representatives of" was added after "shall consist of".

Document L.72: I did not attend the Plenary debate on this document as amended [see above] which commenced at 10:30 p.m. and went on until nearly mid-night. But I gather the G-77 and China were not entirely happy that the European Community had not simply accepted it as drafted since in their opinion it formed part of the overall 'package deal'.

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Comment

While there was relief on all sides, both within and outside the Plenary hall [many UNEP employees are concerned about their future and that of the Organisation] that a compromise had been reached, the atmosphere over these two long days and nights was at times acrimonious in the extreme and certainly pedantic. The main issue was, as in February, the wish mainly of European countries to get the Ministerial Committee and of the developed countries [though there was never any real cohesive group position] to ensure that the future role of the Committee of Permanent Representatives was not relegated to that of postmen.

The 36 members of the High-level Committee will include 10 African, 8 Asian, 4 Eastern European, 6 Latin American and Caribbean, and 8 from the Western European and Others Group. Regional groups will be responsible for nominating candidate States to the Executive Director for confirmation at the next, special session of the Governing Council, 12–14 November, 1997. The first meeting of the Ministerial Committee is expected to take place immediately after UNGASS.

It will be interesting to see just what matters are actually brought before this new committee, how long it will be used at ministerial level, and what will be its fate when it is reviewed by the Governing Council at its regular twenty-first session in two years time.

Although there was no document giving attendance at this resumed session of the Governing Council, rest assured that ICEL was there most of the time!

David M. Miller

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