

UN/CSD-9**Cumbersome Process Draws to a Close**

by Michael A. Buenker*

State delegates, officials from bodies of the UN system and representatives from intergovernmental and non-governmental organisations (NGOs) assembled for the ninth session of the Commission on Sustainable Development (CSD-9) on 16 April at UN headquarters in New York. After a contentious round of Intersessionals which took place from 6 to 16 March earlier this year (see *Environmental Policy and Law*, Vol. 31 No. 2 (2001), page 77), State delegations reconvened in order to hammer out a consensus on five decisions, namely on Energy, on Transport, on Atmosphere, on Information for Decision-Making and Participation and on International Cooperation for an Enabling Environment. The possible elements for Draft Decisions from the Intersessionals were heavily bracketed, especially those on Energy and on Information on Decision-Making. The task at hand was no less challenging as the Session originally scheduled to last until 6 pm on Friday, 27 April, actually ended on Saturday morning on 28 April while negotiators worked through the night.

Opening Plenary

The session was opened by the Chair, Bedrich Moldan (Czech Republic), after observing a minute of silence for the deceased Vice Chair Daudi Taliwaku (Uganda), the provisional agenda was adopted and it was agreed to establish three open-ended drafting groups: Drafting Group I on Energy and Sustainable Development; Drafting Group II on Information for Decision-Making and Participation and on International Cooperation for an Enabling Environment; Drafting Group III on Transport and Atmosphere. Delegates then heard the reports from the outcome of the Intersessional activities.

Multi-Stakeholder Dialogues

From the afternoon of 16 April until the morning of 18 April four Multi-Stakeholder Dialogues were held on the following topics: 1. achieving equitable access to sustainable energy; 2. sustainable choices for producing, distributing and consuming energy; 3. public-private partnerships to achieve sustainable energy for transport; and 4. sustainable transport planning. Representatives from local authorities, business and industry, NGOs, trade unions and the scientific community were invited to present their positions. Each Dialogue began with opening statements by the relevant stakeholder group to which government officials would react, followed by a general debate. The recommendations by the stakeholders were then summarised by the Chair for consideration during the subsequent discussions in the High-Level Segment.

Observers noted that there was a severe drop in attendance at the Multi-Stakeholder Dialogues due to a meeting on climate change held in Washington DC on 17 April and especially the meeting of the Open-ended Intergovernmental Group of Ministers on International Environmental Governance which also took place at UN headquarters (see page 124).

High-Level Segment

The High-Level Segment began on the afternoon of 18 April with a Special Panel on Financing Energy and Transport chaired by Nitin Desai, the UN Under-Secretary-General of Social and Economic Affairs. He stated that this informal panel was designed to present the views of a cross-section of the involved stakeholders and in addition to government representatives from Uganda, Czech Republic and Indonesia, representatives from the World Bank and Global Environmental Facility (GEF) as well as individuals from the Shell Group were invited to present their views. Among the issues addressed were financing opportunities available through financing institutions, new mechanisms for and/or alternatives to direct financing, barriers to receiving funding, helpful types of financial assistance and financing arrangements offered by industries.

Two further interactive dialogues were interspersed during the General Debate which followed of the high-level segment. The Interactive Dialogue on Energy and Transport, held during the afternoon of 19 April, addressed the issue of promoting investment by public as well as private sources and the Interactive Dialogue on Successful Integration of Sustainable Development in National Policies, during the morning session of April 20, focused, among other things, on the implementation of new energy strategies, the use of indicators and related poverty reduction strategies. However, many observers lamented that the participation by government representatives, especially those from developing countries, was rather low-key.

On 19 April, Nitin Desai, opened the General Debate by highlighting the theme of energy. He stated that the previous two sessions of the open-ended working group on energy and sustainable development and the impending discussions leading up to a CSD decision make up the first concerted effort to deal with the underlying political aspects of energy in UN history. Klaus Töpfer, Executive Director of the UN Environment Programme, continued the round of introductory statements, briefing participants on recent UNEP initiatives in connection with the work of CSD, which among other things included preparations for a third Global Environmental Outlook report (GEO-3) scheduled to be released in time for the World Summit

* Administrative Officer, International Council of Environmental Law.

on Sustainable Development (WSSD). The new Internet environment information portal UNEP.net has been launched and work on a Sustainable Alternatives network is underway, which is a joint project with GEF and is intended to provide information and advisory services for decision-making on technology transfer. He also briefly mentioned the Intergovernmental Panel on Climate Change's Third Assessment Report and its striking conclusion that climate change is already underway and has already had severe repercussions for least-developed countries (LDCs) – a lesson which negotiators should keep in mind in their upcoming discussions.

However, it was evident that energy was Klaus Töpfer's main concern. He recalled the Malmö Declaration and its emphasis on re-invigorating the spirit of partnership and



CSD-9 Chairman Bedrich Moldan (Czech Republic)

Courtesy: IISD

solidarity in the international community. He said that "such an inspiring message will not resonate unless the issue of energy is addressed adequately, in other words unless we shift to sustainable energy systems." How CSD will handle the issue of sustainable energy will thus be the touchstone of whether this renewed pledge for intensified international cooperation on the environment and sustainable development is more than an empty promise. He stated that energy is at the heart of economic and social development, but it should also receive special attention from this forum since a misguided energy policy can adversely affect the environment in many different ways, such as "air pollution, acidification of ecosystems, land and water contamination, loss of biological diversity and climate change." Earlier efforts to promote renewable technologies in developing countries have focused too much on promoting non-commercial projects sponsored by developed countries while ignoring the opportunity to introduce private energy enterprises into the local economy which provide new employment opportunities and add to the standard of living. Thus one should focus on drafting

new guidelines for regulatory approaches, financing by international institutions and integrating public and private structures. Efforts to counter the unmet needs for education, training and capacity-building in the developing world should also be re-invigorated.

In closing, the Executive Director ended on a positive note that

"renewable energy technologies, and clean and efficient uses of fossil fuels have in many ways come of age. These will give developing countries, in particular, an excellent opportunity to bypass the polluting energy path of developed countries. In the next two decades, an estimated US\$ 10-15 trillion will be invested in new long-lived energy-sector projects. If this investment is directed towards cleaner energy technologies, we will all enjoy a global economy that is more secure, more robust and much cleaner. There are built-in advantages here for the environment – the main answer from the developing countries' perspective."

David Anderson, the Canadian Minister of the Environment and current President of the UNEP Governing Council, briefed CSD participants on the last Governing Council held at Nairobi from 5–9 February 2001 (see *Environmental Policy and Law*, Vol. 31 No. 2 (2001), p. 66-77) and the work of the Intergovernmental Group of Ministers on International Environment Governance (see page 124). Next, Zéphérin Diabéré read a statement on behalf of Mark Malloch-Brown of the UN Development Programme stressing the interrelationship of their work and that of CSD since UNDP specialises in questions of development. The UNDP, in the absence of a UN agency dedicated to energy, deals with the technical questions underlying energy and sustainable development and thus has made a large contribution to the preparatory work of this segment of CSD-9. Among other things, Zéphérin Diabéré highlighted UNDP's World Energy Assessment report which outlines the three main objectives under proposal: (1) improving energy efficiency; (2) expanding the use of renewable energy; and (3) accelerating the diffusion of cleaner, advanced fossil fuel technologies.

The floor was then opened to the State Members of CSD whose delegates read brief statements on behalf of their governments. The following is only a summary of selected statements by a limited number of Government delegations in order to give an overview of the main positions of the various negotiating blocks within CSD.

Bagher Asadi, Chairman of the G-77/China, opened the series of country statements by outlining the position the G-77/China is going to take on the talks ahead. He noted that he was extremely satisfied with the work on energy and was confident that the remaining outstanding issues will be resolved during this session. The theme he concentrated on most was transport:

"The rapid pace of urbanization in past decades, a rather global phenomenon which does not seem to abate, presents a real challenge for all of our countries. For us, in the developing world, the challenge assumes particular dimensions. How can developing countries meet the ever-increasing demands for urban transport and simultaneously ensure least possible adverse impact on the environment? The problem is not theoretical. Rather, a very real and actual problem of how to respond to the challenges under the overall conditions of limited capacity and resources yet in an adequate and effective manner commensurate with both the long-term development objectives of the society and the requirements for sustainable development. Within such a broad framework, access to affordable transport, instrumental as it is to healthy living, is a major concern for the developing world in general." ■

Making transportation affordable to the poorest segments of society while making it internationally competitive in view of the market pressures imposed by a rapidly globalising world requires well thought-out planning and investment into the most efficient modes of transportation, which in turn requires assistance from abroad: capacity-building, technology transfer and foreign investment. On the theme of atmosphere, the G-77 Chairman stressed that capacity-building and financial resources are likewise key to developing measures for abating air pollution. Concerning Information for Decision-Making, Bagher Asadi briefly noted that he was glad to see that there was sufficient flexibility on implementing the Indicators on Sustainable Development. On an Enabling Environment, he only pointed to the still unfolding process of globalisation and emphasised the need "to ensure a fair and equitable distribution of its benefits across the board, particularly in the developing world where [they] have been receiving the shorter end of the deal."

The Minister of Environment from Sweden, Kjéll Larsson, speaking on behalf of the European Union (EU) and associated States reaffirmed that while CSD-9 should not seek to pre-empt the outcome of the 6th Conference of Parties of the UN Framework Convention on Climate Change (UNFCCC) which is to be resumed in July, it does present a good opportunity to address the underlying causes of climate change through the three negotiating sectors of energy, transport and atmosphere. Specifically, in regard to energy much could be done in improving energy management techniques and cited the EU policy to promote

"open and competitive energy markets within a regulatory framework, which supports the goals of sustainable development. Governments should improve incentives for consumers and the private sector to reduce pollution through implementing the polluter-pays principle by the internalisation of external costs in market prices and by eliminating environmentally harmful subsidies, both in energy and transport sectors."

Further, what concerns international cooperation efforts,

"sustainable energy should be integrated into poverty reduction strategies. Supportive financial and credit arrangements will be needed to introduce energy to the two billion without access to modern energy sources, especially in rural areas. IFIs (International Financial Institutions) and other multilateral organisations have a responsibility to refrain from investments in unsustainable projects and to promote sustainable energy systems, including energy efficiency and renewable energy related investments in all sectors as part of social and economic development."

However, it is worth noting that the Swedish Minister, since he was acting as the representative of the EU, avoided making a clear pronouncement on the use of nuclear energy, but acknowledged that it is a rather sensitive question yet to be settled since "some countries opt for nuclear energy, [and] others do not." The statements by other EU Member States, which followed later, reflected the diverging views within the Union between those who disavowed nuclear energy as being a sustainable form of energy, those who proposed a gradual phase-out and those who insisted on the continued reliance on nuclear energy.

The Swedish Minister continued to address the transportation theme. Since the transportation sector is a growing end-user of energy and source of air pollution, new concepts for transportation management and considera-

tion for more efficient infrastructure planning are needed on an international as well as on a national scale. He added, "government[s] should cooperate to promote investments in sustainable transport and to facilitate the transfer of environmentally sound technologies." Developing countries, especially, should benefit from intensified international cooperation and support from IFIs to this end. As for the protection of the atmosphere, the EU stressed its commitment to the implementation of the Montreal Protocol and replenishing its Multilateral Fund. The pending implementation of the Stockholm Convention on Persistent Organic Pollutants (POPs) and the UN/Economic Commission for Europe (ECE) Convention on Long Range Transboundary Air Pollution were also pointed out as successful international and regional initiatives to combat transboundary air pollution.

Turning to other key themes of CSD-9, Kjéll Larsson considered the question of an enabling environment to be the overriding issue toward achieving sustainable development on a global scale and re-emphasised that the continued participation in international cooperation projects will remain a top priority for the EU:

"While an enabling domestic environment based on a sound macro-economic framework and good governance is crucial, there is also a strong need for international co-operation to this end. The EU remains fully committed to development co-operation, including to reaching the ODA target of 0.7 per cent of GNP by all donor countries as soon as possible. Based on national ownership, improvements in co-ordination of all ODA so as to ensure an integrated approach towards sustainable development also continues to be a priority for the EU."

As for Information for decision-making and participation, the EU speaker pointed out that he is confident that by June of this year the EU will fully embrace the provisions of the UN/ECE Aarhus Convention and thus will fulfil Principle Ten of the Rio Declaration on access to information, public participation and access to justice. Further, he highlighted the importance of the collection, aggregation and analysis of data for decision-makers in order to make informed policy choices, and defended the use of the controversial Indicators of Sustainable Development: the CSD has offered "a valuable and flexible starting point for countries to develop national indicators on a voluntary basis. To support these efforts and to gradually improve their consistency, in a transparent and participatory manner, further work of the CSD Secretariat is essential. The EU will continue its support and is ready to contribute to this work with all partners."

Speaking on behalf of the Rio Group, Ambassador Juan Gabriel Valdes of Chile reiterated "the need for the developed countries to support the efforts of the developing countries to achieve sustainable development...", especially through the "...provision of financial support, the strengthening of human resource capacities and the transfer of technology in all sectors, particularly with a view to making maximum use of all sources of energy." He further expressed the willingness of the countries of the Rio Group to participate in the project of setting up Indicators for Sustainable Development. In view of the increasing hole in the ozone layer in the Southern Hemisphere, he made a special appeal to the international community to

increase the resources of the Multilateral Fund of the Montreal Protocol so that developing countries could more effectively work towards reducing their emission of CFCs.

Other topics he briefly addressed were the development of a comprehensive global programme for the reduction of natural disasters through strengthening prevention and early warning capabilities. Another major concern of the Rio Group is achieving the objectives of the UNFCCC and advancing the implementation of the Kyoto Protocol, especially in view of the vulnerabilities of Small Island Developing States (SIDS) and low-lying coastal states. It expressed the hope that the US government would reconsider its recent decision not to participate in the implementation of the Kyoto Protocol. Juan Valdes further cited the position of the last meeting of Ministers of Foreign Affairs of the Rio Group which dealt with the issue of transit of radioactive materials and hazardous wastes along coastal routes or navigable waterways. He reaffirmed its commitment to the international regime on the safe transportation of radioactive materials while urging the international community to implement the mechanisms established by the International Atomic Energy Association (IAEA) and the International Maritime Organisation (IMO) to this effect.

Regarding the theme of Energy, the Indian Minister of Environment and Forests, T.R. Baalu, drew special attention to the fact that the rural populations of many developing countries still rely on non-commercial sources of energy, in particular biomass. He therefore urged the drafters for a decision on energy to consider such non-conventional forms of energy production and seek to promote these as a part of a technologically and environmentally sound menu of options that every nation can adapt according to its needs. T.R. Baalu also expressed concern that the past discussions concerning energy gave too little emphasis on the question of over-consumption of energy in developed countries: "The developed countries have already substantially overdrawn from the resources. It is time to pay back." He reminded representatives of the developed countries of their commitments made in international fora on environment and financing for development and expressed disappointment that they have not fully followed up on the promises of transfer of technology and resources. The discussions held in CSD should not be merely a rhetorical exercise and the commitments made therein must be fulfilled, he added.

The Indian representative with regard to the theme on Transport also emphasised that any consolidated plan on improving a country's infrastructure must take into account the socio-cultural realities. For example, the idea of introducing tolls in order to garner funds for road construction will not be acceptable everywhere. Special consideration must be given in order to service rural areas in developing countries and upgrade current modes of transportation relying largely on leaded gasoline to cleaner and more efficient forms of transportation technology.

In closing, T.R. Baalu re-emphasised, in connection with the theme of an enabling environment, that the global partnership which was forged at Rio is based on the principle of common, but differentiated, responsibility.

Thus, the developed world had acknowledged that in the international pursuit of sustainable development it carries a major responsibility for aiding the developing countries by making new and additional financial resources available and transferring environmentally sound technologies. He added that

"these requirements have become even more important in a fast integrating world where poverty in one part can be a detriment to prosperity in another. This highlights the need for a non-discriminatory, open, fair and equitable multilateral financial, monetary and trading systems and full and effective participation of developing countries in international norm-setting and rule-making processes."

The Samoan Ambassador Tuiloma Neroni Slade (see also pages 157 and 163) who spoke on behalf of the Alliance of Small Island Developing States (AOSIS) highlighted the themes of energy and climate change. He began by stating that since energy was identified as a priority issue by the Barbados Programme of Action for the sustainable development of Small Island Developing States (SIDS) in 1994, there has been no substantive progress in encouraging the more efficient use of energy and the development of environmentally sound renewable energy sources of these island countries. "There continues to be heavy dependence on imported petroleum products, largely for transport and electricity generation. The potential of the ocean, solar energy and wind power, notwithstanding their natural abundance, has yet to be fully explored." Further, this dependence on imported petroleum causes a severe imbalance in trade. However, SIDS, due to their geographically isolated position and small-scale economies, do not have the capacity or means to invest in renewables. Tuiloma Neroni Slade pointed to recent efforts of regional cooperation and collaboration on energy efficiency projects, but said work could be speeded up or the duplication of work be avoided if there were more assistance from the international community.

He added that AOSIS supports the Clean Development Mechanism (CDM) under development by the negotiators of the Kyoto Protocol, but opposes the use of CDM for the development of nuclear energy. Small island communities have been severely traumatised by the use of nuclear weapon tests and do not regard nuclear energy as sustainable. In regard to climate change, he reiterated the threat posed by global warming to small island countries and urged the developed countries to fully consider the dangers of continued reliance on fossil fuels. For this reason, AOSIS has supported the development of the Climate Change Convention and, in particular, the Kyoto Protocol. While the Protocol may be an imperfect agreement in that the level of emission reduction targets is set too low as many recent scientific studies indicate, it is still the very first "international instrument that lays down clear legally-binding targets to be met within agreed time frames." Given the disproportionate climate change risks and the associated level in sea rise AOSIS are exposed to, "the Kyoto Protocol is the lifeline of our predicament. Fundamental considerations of global responsibility and of equity are at stake. Every effort by the entire international community to bring the Kyoto Protocol into operation and to implement its provisions must be sustained." ■

After stressing US commitment to the three pillars of sustainable development, the American Ambassador Mark Hambley turned to the theme of energy. He began by pointing out that the developing world is in need of substantial investments into energy, an estimated US\$ 15–55 trillion over the next 50 years, and that the US is no exception in this regard. Energy consumption in the US is expected to increase by over 30 per cent in the next 20 years. Echoing the language used in US President George Bush's recent decision to withdraw the US signature from the Kyoto Protocol (see *Environmental Policy and Law*, Vol. 31 No. 2 (2001), page 122), the Ambassador appealed to the other national delegations of CSD that in drawing up any decision on energy the individual circumstances of each country must be respected and governments must have a great amount of leeway in choosing from among a mix of energy sources to suit their own needs. While the US believes in investing into renewable technologies and energy efficiency projects, conventional energy sources will certainly continue to be part of its domestic energy mix for years to come. Underscoring the importance of this issue, George Bush has put Vice President Dick Cheney in charge of a national energy policy review. A concrete prescription offered to the CSD is to focus on efforts on how to attract the private sector into investing into new power generating capabilities and upgrading existing energy structures – which is in tune with the current US policy line of tackling its own energy shortage crisis.

On Atmosphere and Transport, the US Ambassador noted the success of the Montreal Protocol in curbing emission of CFCs, but kept silent on the issue of the Kyoto Protocol. He preferred to point to domestic efforts toward a bill on a multi-pollutant strategy which requires power plants to reduce emissions of sulphur dioxide, nitrogen dioxides and mercury. In regard to transportation, the US has also made efforts to link transport more effectively “with growth strategies, land use plans, safety, environmental quality and economic development.” Initiatives such as car-pooling, high-occupancy vehicle lanes and improving public transit systems were cited. Noting the success of phasing out leaded gasoline and its beneficial effects on improved air quality, further governmental efforts to reduce emissions from vehicles and mandate the introduction of cleaner fuels were also mentioned.

As a last point, Mark Hambley highlighted an enabling environment for sustainable development as perhaps the most important issue on the agenda of CSD:

“We understand the view that more resources will be needed for sustainable development, and we recognize that ODA must be part of the equation. The US provided US\$ 9.1 billion in ODA in 2000. We believe that debt relief is important as well. US efforts at debt relief have already totalled over US \$14 billion in the past decade and could produce an additional US\$ 6 billion in the years to come. ... However, the statistics now are overwhelming. US imports from developing countries were over US\$ 500 billion in 1999 – one half of total imports. The private sector will provide the bulk of the needed resources.”

The US thus underlined its willingness to contribute to international financial aid for sustainable development, but expressed worries on behalf of US industry in the face of increasing global competition, especially from developing countries. In the name of a fair market and sustain-

able development concerns, he suggested that the industries of developing countries should be subject to similarly stringent regulations concerning environmental safety and labour standards, etc. And thus the decision to which countries US resources should flow should hinge upon considerations to what extent the rule of law is applied and corruption avoided.

In addition to making the provision of financial resources conditional, the US pointed toward efforts in offering concrete assistance: “trade investment and liberalisation will not promote sustainable development if developing country governments are not fully versed in developing, implementing, and enforcing environmental regulatory policies, practices and legal frameworks.” The Ambassador pointed out concrete initiatives of US agencies abroad who provide training and technical assistance to developing countries in order to strengthen their institutional capacity, especially *vis-à-vis* strengthening domestic environmental laws and fulfilling obligations under multilateral environmental agreements.

By coincidence, the German Environment Minister Jürgen Trittin took the podium immediately following the US statement, of which he was very critical. He announced that he considered energy to be the most important issue of CSD-9:

“Over 85 per cent of the global energy supply is provided by fossil fuels. In one year, mankind consumes a volume of energy which our planet took 500,000 years to produce – an irresponsible waste of resources. Almost 70 per cent of global energy consumption occurs in industrialised countries, where only 25 per cent of the world's population live. Since the late 18th century the CO₂ concentration in the atmosphere has increased by 31 per cent. While the world's population is still growing, all have a right to be provided with basic needs and to enjoy a decent standard of living.”

For this reason one needs to act on creating future-oriented energy systems in the next few decades. Jürgen Trittin stressed there is no reason to delay the development of renewable and more efficient energy technologies. One of the main reasons why speedy action is needed is climate change:

“No doubt, already now it is occurring more rapidly and drastically than ever assumed. The poorest are the most vulnerable to these and further changes. The longer we wait, the harder and more expensive action will be. All governments have a special responsibility in seeking an agreement on the basis of the Kyoto Protocol, not least those countries with a high level of per capita emissions of CO₂. To remind everybody: an average US citizen is emitting 22 tonnes of CO₂ per year, an EU citizen 9 tonnes, an Indian citizen 0.9 tonnes. As developed countries have contributed most to causing the problem and are still doing so, the industrialised world has to take a leadership role. Developing countries are right to make it clear that they will not take on new commitments until developed countries have shown they are serious about taking domestic action.”

In direct response to the reasoning why the US administration has decided to no longer support the implementation of the Kyoto Protocol, the German Minister continued to say: “some claim that the Kyoto Protocol is too expensive. That is totally wrong. [This] business-as-usual [attitude] would not only be disastrous for the environment but would be a mistake in terms of the economy as well.”

He pointed to the possible opportunities for new business ventures, economic growth and creation of new jobs

that would present themselves and cited increasing public support for such efforts.

Jürgen Trittin continued to address the upcoming preparations for the World Summit on Sustainable Development. While the Rio Conference cannot be repeated, one should take care to apply the lessons from it in order to make the Johannesburg Summit a success. UNCED initiated the linkage of the policy questions on environment, economics and social policy and stimulated the development of many new policy processes for environmental conservation and sustainable development. Johannesburg should focus on taking action-oriented decisions on sustainable energy and on poverty and environment as well as international environmental governance and the role UNEP is to play. Improvements in energy efficiency and development of renewable energy sources have the potential of improving the living conditions in highly urbanised and even the most remote areas of the world of those struck by poverty. He cited the recent UN Millennium Declaration (see *Environmental Policy and Law*, Vol. 30 No. 5 (2000), page 263) which states that "for peace, democracy and for the environment, poverty is the most toxic poison in the world" and announced plans of the German Government to redirect its international cooperation efforts more toward the issue of poverty alleviation and debt relief. In view of the question of globalisation, the 2002 Summit should also include a segment on "Green Investments" and plans to involve the participation of all major groups of civil society. The Minister concluded his speech by making a final suggestion for the WSSD, namely to consider the question whether UNEP should be restructured as a sort of World Environment Organisation and quoted UN Secretary-General Kofi Annan: "There is no shortage of ideas on what should be done. What we need is a better understanding of how to translate our values into practice and how to make new instruments and institutions work more effectively."

The General Debate concluded in the late afternoon of 20 April and, as in previous sessions of CSD, criticism was voiced that many government representatives resigned themselves to reading pre-prepared statements instead of actively involving themselves in a debate. In fact, the impression arose that many delegates were not even interested in listening to the presentations of their colleagues and were waiting for the drafting groups to begin – where the real action is. Thus the long-standing debate continues between those who regard the General Debate as a pointless exercise and those who defend it as a useful forum for the exchange of views.¹

The work of the drafting groups began on 23 April. Despite the antagonistic atmosphere of the Intersessionals, negotiators began in good humour, confident that they would be able to resolve all the outstanding issues. However, the G-77/China, and the US soon had to object to numerous new proposals introduced by the EU that had not been agreed at the Intersessionals. Substantive disagreements related to the use and transportation of energy, sustainable development indicators, Principle Ten of the Rio Declaration, governance, climate change and the Kyoto Protocol. There also was protracted discussion on both procedural and substantive matters. The finalised texts of the Decisions are available for download at http://www.un.org/esa/sustdev/csd9/csd9_2001.htm.

Drafting Group I Energy and Sustainable Development

Vice Chair Alison Drayton (Guyana), who later was to receive a lot of compliments for her work, was chosen to chair this Group which focused on energy issues such as accessibility, improving the efficient use of energy, developing renewable and cleaner forms of energy. In addition to the Secretary-General's report on Energy and Sustainable Development: Options and strategies for action on key issues (E/CN.17/ESD/2001/2), the Group had before it the highly-bracketed text of the possible elements for a draft decision by the 2nd Session of the Ad Hoc Open-Ended Intergovernmental Group of Experts on Energy and Sustainable Development which met from 26 February to 2 March 2001² and its report (E/CN.17/2000/15). As during the Intersessionals, the section on nuclear

energy was the most controversial, especially with regard to questions of nuclear safety and waste management, and the regulation and transport of nuclear waste.

Under General Considerations, the final text states that energy is central to achieving the goals of sustainable development. Noting the wide disparities in levels of energy consumption and the challenge to provide energy services to the over a third of the world's population currently lacking regular access to energy, the

challenge lies in developing mechanisms for securing adequate and reliable financial resources in order to invest into energy-sufficient, environmentally sound and cost-effective technologies. It is emphasised that the policy prescriptions listed in the following are to be viewed as a menu of options adaptable for each nation's situation. The main goal of energy for sustainable development should be poverty eradication. ■



Vice Chair Alison Drayton with Australian delegate

Courtesy: IISD

The key issues identified are (1) accessibility of energy; (2) energy efficiency; (3) renewable energy; (4) advanced fossil fuels technologies; (5) nuclear energy technologies; (6) rural energy and (7) energy and transport. The emphasis of the sections on the first three issues was on creating energy structures which reinforce sustainable consumption patterns. The section on nuclear energy was retained as nuclear power currently accounts for 16 per cent of the world's electricity generation, but the introductory paragraph notes that many countries view nuclear energy as a non-sustainable source of energy.

The sections on rural energy and transport seek to ensure that the energy demands of rural areas and of requirements for modern transportation are met by relying on a more efficient use of energy. To promote sustainable development in rural areas, energy service delivery structures should be developed that are adapted to the needs of these regions and that make use of innovative financing arrangements from which the local community may benefit through employment opportunities. Policy-makers should seek to ensure that electricity is affordable to the poor and that use is made of indigenous energy sources whenever possible. Concerning sustainable transport systems, governments were urged to draw up plans to integrate a more rational approach to urban planning with a view to transportation demands. The use of cleaner fuels was also promoted, but delegates from developing countries were reluctant to underwrite the phase-out of leaded gasoline as long as no external funding is made available to them in order to adapt to the necessary (and more expensive) technology.

Overarching issues centre on research and development of cleaner, more efficient and renewable energy, capacity-building and technology transfer to enable developing countries and Economies in Transition (EITs) to adopt to such technology, mobilising financial resources and generating incentives to steer markets toward making use of such sustainable energy technologies, as well as emphasising the multi-stakeholder approach. Sections on regional and international cooperation encourage multi-lateral cooperation in research and development and exchange of information. Cross-border electrification and energy trade projects are also to be encouraged.

Drafting Group II Information for Decision-Making and Participation and International Cooperation for an Enabling Environment

Vice Chair Alison Drayton, who acted as Co-Chair of the relevant Intersessional, was also chosen to chair this Group which had before it the report of the Intersessional Ad Hoc Working Group on Information for Decision-Making and Participation and on International Cooperation for an Enabling Environment which took place on 12–16 March 2001 (E/CN.17/2000/17).

Information for Decision-Making and Participation³

Issues under consideration were agreeing on and implementing a standard set of Indicators for Sustainable Development and bridging the data gap, especially *vis-à-*

vis developing countries and EITs. The most challenging task was to resolve the issue of Indicators of Sustainable Development. The Intersessionals had shown that delegates from the G-77/China were apprehensive about participating in Indicator projects of any kind, as they feared that these would be made a basis for determining whether a country is eligible for development aid from international investment institutions. After protracted informal negotiations outside the drafting group, the section on Indicators was entitled to read "Approaches to Indicators on Sustainable Development" and the text stressed that countries would participate in these indicators only on a voluntary basis and that implementation of these is to take country-specific conditions into account. More importantly, they "shall not lead to any type of conditionalities, including financial, technical and commercial."

Regarding the coordination of the collection of data and making it available for analysis, the international community should encourage the streamlining of methodologies for data collection and sets of indicators used and assist capacity building in developing countries *vis-à-vis* the creation of national centres for information gathering and statistical analysis. In addition to know-how, international financial support should also be made available for setting up such information infrastructures, for which Internet technologies are a prerequisite. While the positive role the private sector could play in information management was acknowledged, there should be safeguards which ensure that the degree of public access is not restricted through an exorbitant price tag for these services.

The final text mentions Rio Principle Ten on access to environmental information, public participation in decision-making and access to judicial and administrative proceedings in environmental matters. Yet, despite numerous EU proposals, the language is not as far-reaching as that of the Aarhus Convention on Access to Information, Participation in Decision-making and Access to Justice in Environmental Matters⁴ and no mention was made of encouraging the creation of similar regional frameworks.

International cooperation for an enabling environment

Under consideration was the question of promoting an enabling environment at both the domestic and international levels in order to promote sustainable development, economic growth, social development and environmental protection. The introductory paragraph of the final text of the decision states that it requires partnerships among developed and developing countries, on the basis of common but differentiated responsibilities and taking into account national particularities. Measures to counter the negative effects of globalisation were also addressed.

In order to decrease economic inequalities among and within countries, it is recommended at the international level that renewed efforts are made in order to meet unfulfilled UN official development assistance (ODA) targets. The text reiterates the accepted UN target for ODA at 0.7% of gross national product (GNP). There were proposals to raise ODA to 1.0%, but these were unacceptable to donor countries. Improved coordination of ODA and

its catalytic role were also listed in order to better suit the needs and plans of recipient countries. Further under consideration were innovative mechanisms for financing sustainable development, including the Global Environment Facility (GEF), improving the functioning of the GEF to make it more responsive to the needs of developing countries and eliminating unnecessary duplication among bilateral and multilateral development institutions.

As concerns the role of the World Trade Organisation (WTO) in addressing sustainability concerns, concerted action is required in order to eliminate obstacles to free trade, especially subsidies that are trade distorting and environmentally harmful, in particular, agricultural and energy subsidies. A special emphasis was put on ensuring that environmental standards should not become trade barriers to imports from developing countries.

At the national level, governments were encouraged to formulate and implement national sustainable development programmes which are in line with the three pillars of sustainable development. To this end, domestic capacity-building should be promoted in order to improve the general economic and social situation, especially by improving opportunities for the private sector, NGOs and other major groups to contribute.

Drafting Group III Transport and Atmosphere

This Group was chaired by Vice Chair David Stuart (Australia) who also co-chaired the Intersessional Ad Hoc Working Group on Transport and Atmosphere which took place from 6–9 March 2001. Delegates here had to contend with the report of this Intersessional (E/CN.17/2000/16) which contains the two associated possible elements for a draft decision. Negotiations went very smoothly, as in the Intersessionals.

Transport⁵

Under General Considerations, the final text of the decision on transport states that while transportation is a prerequisite for economic growth, emissions pose a threat to the environment and human health. The demand for transport services will continue to increase worldwide and has been the major source of growth in energy demand, which is expected to continue to increase in the foreseeable future. Decisions concerning transport should ensure a balance between the three pillars of sustainable development. Investments into transport should take into account land-use regulations which limit urban sprawl; promote non-motorised transport and mass transit systems; cleaner fuels; and transfer of cleaner technologies. It should be the aim to achieve a balanced mix of land-, water- and air-based modes of transportation which fulfil modern transportation requirements and are least harmful to the ecosystem.

Delegates agreed that the international community should focus on ensuring adequate financing for research and development into cleaner technologies, more efficient transportation modes and integrated infrastructure planning. Developing countries should be assisted in setting

up human resource development programmes for capacity-building. Partnerships between the public and private sector should be supported in order to stimulate investment into the introduction of appropriate technologies and infrastructure. Further, the exchange of transport-related information should be facilitated, public awareness be raised and transport policies aimed at improving safety standards promoted. Special mention was made in regard to the transport and communication structure in mountainous regions.

As for regional cooperation, the Commission should encourage through UN regional commissions, regional development banks and other regional frameworks for political and economic cooperation to exchange data and policy experiences, finance intraregional transport projects for sustainable development and look into the creation of transboundary pollution agreements or, if already existing, strengthen these.

The section on the national level contains similar recommendations to those on the international and regional level with a special emphasis on formulating government policies which provide incentives for the private sector to switch to cleaner, more energy-efficient and safer modes of transportation while ensuring that transportation remains affordable for all segments of society.

Atmosphere⁶

Negotiators of this Group had to contend with addressing issues related to the atmosphere and its detrimental side-effects in all of its complexities. Renewed efforts by the EU to introduce references to current negotiations processes on Multilateral Environmental Agreements (MEAs) related to the protection of the atmosphere, most prominently the implementation of the Kyoto Protocol, caused the delay of the successful conclusion of a decision on the theme of Atmosphere. Extensive informal negotiations followed on this subject and it was finally agreed not to include language that would prejudge the outcome of UNFCCC COP-6.

Among the general provisions of the final decision on Atmosphere, it is stated that all measures under consideration should strike a balance between the three pillars of sustainable development. Reiterating the principle of common but differentiated responsibilities, renewed recognition was given to the importance of additional international financial support for developing countries, as well as support for capacity-building and transfer of environmentally sound technologies in accordance with the provisions of Agenda 21. The paragraph which was extensively discussed concerned the historical share of the deteriorated state of the atmosphere, since G-77/China along with other developing countries had objected to the draft text, which tended to indicate that problems relating to atmospheric protection are due mainly to developing countries. One of the introductory paragraphs emphasises that “the developed countries have the greatest share in the historical accumulation of pollutants.” Despite the US call for the deletion of the term “historical”, it was retained. ➤

With reference to international cooperation, the Commission is urged to recommend further research and development of technologies for controlling air pollution, capacity-building and financing in order to implement these technologies and promote sustainable consumption and production patterns. This is all with a view toward providing assistance to developing countries and EITs to this end. As indicated above, the text restricted itself to briefly noting the ongoing negotiation of the Kyoto Protocol. However, the G-77/China's call to stress the importance of replenishing the Multilateral Fund under the Montreal Protocol and to encourage its Parties to meet their obligations to contribute on a regular basis was accorded.

Prescriptions for the regional level have been summarised very briefly and are similar to the initiatives for international cooperation: more regional cooperation on atmosphere-related issues taking into account each region's characteristics; support for existing regional frameworks for controlling air quality and transboundary air pollution; and scientific monitoring of the atmosphere. Recommendations at the national level also include, taking into account individual national priorities and circumstances, the study of atmospheric conditions, developing policies for controlling air pollution and promoting research and development into the best available and affordable technologies for reducing emissions. Special emphasis was put on involving public participation and the study of adverse affects on human health. Textual provisions for the need for developed countries to restructure taxes to reflect carbon content and elimination of subsidies, were also agreed on.

As the final day of CSD-9 approached, it became evident that the work of the Drafting Groups was far from finished and would require negotiators to continue working through the night. It was feared that talks would break down and that the session would be disbanded without

producing any decisions. However, many crucial last-minute compromises were reached during informal consultations held in smaller groups, enabling the Drafting Groups to conclude their drafts and present these for a final reading at 7:00 am. In order to speed up the process the reports and draft decisions of the individual Drafting Groups were read before the entire Plenary.

Closing Plenary

At 8:10 am on 28 April, Bedrich Moldan was finally able to convene the closing Plenary, which was originally scheduled for the afternoon of 27 April. The reports of the Drafting Groups were acknowledged and all five decisions were adopted. Delegates were presented with the draft programme budget for the biennium 2002-2003 for the Division on Sustainable Development (E/CN.17/2001/L.1) which outlines among other things the budget for the Bureau. The Provisional Agenda for CSD-10 was also adopted as a formality. The delegates who had stayed throughout the negotiations from 10 am Friday to 9 am Saturday, despite their fatigue, were relieved to see that CSD-9 was brought to a successful conclusion. While there were many issues that were left unresolved, they felt they had made great strides in a positive direction.

Notes

¹ See former UNEP Executive Director Mostafa Tolba's proposals for reducing time spent on the reading of statements in *Environmental Policy and Law*, Vol. 30 No. 3 (2000), p. 116.

² See *Environmental Policy and Law*, Vol. 31 No. 2 (2000), p. 77-78.

³ Relevant background papers were the Secretary-General's Report (E/CN.17/2001/4); Report on the aggregation of indicators of sustainable development (E/CN.17/2001/4/BP/2); and Indicators of Sustainable development: framework and methodologies (E/CN.17/2001/4/BP/3).

⁴ See *Environmental Policy and Law*, Vol. 28 (1998), p. 211.

⁵ See also Report of the Secretary-General on Transport (E/CN.17/2001/3).

⁶ See Report of the Secretary-General on Protection of the Atmosphere (E/CN.17/2001/2).

