

## Governing Council: 20<sup>th</sup> Session

The twentieth session of the Governing Council of the United Nations Environment Programme (UNEP) was held at UNEP headquarters, Nairobi from 1–5 February, 1999.

This was the first meeting of the Council since the adoption of the Nairobi Declaration on the Role and Mandate of UNEP, the UN General Assembly Special Session to review the implementation of Agenda 21, and the appointment of Klaus Töpfer as UNEP Executive Director.

Approximately 600 delegates, including ministers and senior government officials from over 100 countries, as well as representatives from environmental non-governmental organisations (NGOs), UN agencies, international organisations, business and industry, and youth organisations attended the week-long meeting.

The session was opened by Sid-Ali Ketrnji (Algeria), Vice-President of the Council at its nineteenth session.

Shafqat Kakakhel, UNEP Deputy Executive Director, read a message to delegates from Kofi Annan, United Nations Secretary-General in which the Secretary-General noted that the 53<sup>rd</sup> session of the UN General Assembly (see also page 64), had reaffirmed the role of UNEP as the UN's principle environmental body. He remarked that the General Assembly had yet to take a decision on the recommendations of his Report on Environment and Human Settlements, and emphasised the importance of the Governing Council's discussions on reform. The Secretary-General noted linkages between environment, sustainable development, poverty eradication and peace making. He stressed the need for a solid manifestation of the UN in Africa, and the importance of a strong and defined role for UNEP within UN reform.

The opening meeting was also addressed by representatives of youth organisations, who referred to the call to youth in Agenda 21 to participate actively in environmental matters and pledged their commitment to mobilise youth in their own countries to work for the good of the environment. To this end, their forum had established a youth advisory council for UNEP, which would facilitate the involvement of youth in all aspects of the Organisation's work, including in the negotiation and preparation of environmental legislation and treaties and the formulation of work programmes.

The representative of Venezuela read out a statement from Arnaldo Gabaldon (Venezuela), President of the Council at its nineteenth session. He recalled that he had assumed the presidency at a time of crisis for the Organisation and noted, with gratification, that UNEP had largely overcome that crisis over the intervening two years, thanks to such measures as the adoption of the Nairobi Declaration on the Role and Mandate of UNEP taken at the 19<sup>th</sup> Session of the Governing Council; the strengthening of the Committee of Permanent Representatives; and the establishment of the High-Level Committee of Ministers and Officials.

Sid-Ali Ketrnji then addressed the Council. He said that the forthcoming session marked an important stage in the process of change and renewal of UNEP. The proposed programme of work for the period 2000–2001 aimed to give effect to the reforms instituted by the Executive Director and included among its areas of focus support for Africa and the addressing of regional concerns. He stressed that UNEP must be given the necessary financial resources to perform its role as a global moral authority and efficient instrument in the field of the environment. In that respect, he welcomed the strengthened coordination between UNEP and the Global Environment Facility (GEF), and drew attention to the important task faced by the Council at its current session in preparing the UNEP contribution to the forthcoming session of the Commission on Sustainable Development (CSD).

Francis Nyenze, Minister for Environmental Conservation of the host country, welcomed all participants on behalf of the people of Kenya. He urged delegates to look for all possible ways and means of further enhancing the role of UNEP as the principal United Nations body in the field of the environment by supporting it with adequate, stable and predictable funding.

The Council then heard a statement from Executive Director Klaus Töpfer, in which he praised the invaluable efforts of the Committee of Permanent Representatives (CPR) in the preparations and discussions over the months leading up to the current session.

The areas of concentration agreed by the Council at its fifth special session remained of key relevance, he

said. (See also *Environmental Policy & Law*, Vol. 28 (1998) at pages 141 and 197.) Financial setbacks resulting from recent economic and financial shocks should not result in long-term reversal of environmental policies. Noting the new integrated organisational structure of UNEP, which was functional rather than sectoral, he emphasised that the budget of US\$119.41 million, including \$100 million for programme activities, was the minimum necessary for UNEP to regain its effectiveness, critical mass and operating capital. In closing, he applauded the increased contributions to the Environment Fund by 33 Member States since 1998 and hoped that the trend would mean that the 1998–1999 approved budget would be fully funded.

The Plenary then elected the Bureau: László Miklós (Slovakia) was elected President. Jean P. Nsengiyumva (Burundi), Leandro Arellano (Mexico) and Jan Pronk (Netherlands) were elected Vice-Presidents. Rapporteur was Hossein Fadaei (Iran).

In his acceptance statement, President Miklós recalled that the current revitalisation of UNEP had been defined by the adoption of the Nairobi Declaration and said that the appointment of Klaus Töpfer as Executive Director had significantly helped to restore the confidence of Governments in UNEP and its leadership. Referring to the agenda of the current session, he drew particular attention to the proposed budget and programme of work for the biennium 2000–2001, in which special attention had to be paid to the availability of resources; the need to revisit the current work programme and related budget approved by the Council at its nineteenth session, in the light of the changes in the organisational structure and the reorientation of areas; the UNEP contribution to the seventh session of the Commission on Sustainable Development; and the need to have a full discussion on the issue of freshwater. The President also stressed the need to strengthen the role of UNEP as an implementing agency of the GEF, and the need for better coherence, coordination and efficiency with respect to the global environmental conventions and the support that UNEP provided to them.



*Klaus Töpfer, Executive Director, and the President, László Miklós, at the opening session*

## I. Organisation of the Work of the Session

At its first meeting, the Governing Council considered and approved the organisation of the work of the session in the light of the recommendations contained in the annotated agenda (UNEP/GC.20/1/Add.1/Rev.1).

The Council decided to establish a sessional Committee of the Whole to consider agenda item 9 (Programme, Environment Fund, and administrative and other budgetary matters). The Committee of the



Whole (COW) would meet concurrently with the Plenary. The Council also decided that all other substantive agenda items would be taken up directly in the Plenary.

It was decided to establish an open-ended negotiating group, to be chaired by the President, with a core membership of two representatives from each regional group, in order to discuss draft decisions before they were formally considered by the Plenary. Later, it was decided that an open-ended subgroup should be established under the negotiating group, to be chaired by Werner Obermeyer (South Africa), with the specific mandate to consider the draft decision under agenda item 6 (Results of the General Assembly's consideration of the Secretary-General's report to the Assembly at its fifty-third session on environment and human settlements (A/53/463)), once it had been discussed in the negotiating group, with a view to reaching a consensus text for adoption by the Plenary.

### *Committee of the Whole*

In considering this item, the Committee had before it over 30 documents, and many draft decisions contained in two papers, UNEP/GC.20/L.5 and UNEP/GC.20/L.5/Add.1. The following report on events in the Committee of the Whole has been prepared by David Miller, ICEL's representative at the meeting.

### **Introduction**

Somewhat at the last minute and during the opening session of the Plenary, it was decided that the customary "Committee of the Whole" [COW] would consider only agenda item 9 – Programme, the Environment Fund and

administrative and other budgetary matters – one of the two items allocated to it originally.

### Organisation

The President of the Governing Council decided that Vice-President Leonardo Arellano [Mexico] should chair the COW, The COW itself elected David Swao [Kenya] as its Rapporteur. In all, the COW held eight meetings over three short days, with one night meeting until 1:30 a.m. General discussion was followed by more detailed consideration of six clusters of subjects:

1. Environmental Assessment and Early Warning
2. Policy Development and Policy Implementation
3. Technology, Industry and Economics
4. Regional Co-operation and Representation, Environmental Conventions, Communications and Public Information
5. Management and Administration
6. Global Environment Facility

### Discussion

The Executive Director, Klaus Töpfer opened the general discussion by making an excellent presentation of the budget for the bienniums 1998–9 and 2000–1. He employed overhead projections to explain in a clear, precise and very informative manner [despite two power interruptions!] that as 33 States had increased their contributions the Environment Fund was some 5 per cent higher in 1998 than 1997. He predicted the income for 1999, estimated at US\$107.5 million, would be sufficient to cover planned activities. For 2000–1, he called for some US\$119.4 million, which would cover inflation in Nairobi of 10.3 per cent. He described this as not a significant increase. He claimed a 15 per cent, reduction in management and administrative support costs and thought a further 8 per cent reduction might be expected in the near future. In short, it was a masterful presentation.

As part of his effort at reform and to introduce a “new style of thinking and management”, Töpfer went on to explain his shift from a sectoral to functional organisation of UNEP and provided detailed budgets for each of the now seven sub-programmes: environment assessment and early warning; policy development and law [to get 11 per cent]; policy implementation; technology, industry and economics; regional co-operation and representation; environmental conventions; and communication and public information. He promised to implement the recommendations of the UN Advisory Committee of Administration and Budgetary Questions [ACABQ], which, generally, had requested UNEP to bring the format of its budget in line with other UN agencies. He also said he was reducing senior posts in favour of hiring younger people. Finally, he mentioned that US\$1.2 million had been raised in the “POPs Club” and suggested that this mechanism for attracting additional funding for UNEP’s activities might serve as a model.

This presentation by the Executive Director was supported by practically all following speakers, though a

few [i.e. US and Japan] thought it might be overly optimistic for 2000-1. Others stressed the need for UNEP to be realistic and to gain credibility. The Chairman made the personal observation that there was now a great difference in the Secretariat. A totally different attitude now prevailed towards the Committee of Permanent Representatives [CPRs] and the Secretariat was becoming evermore efficient.

An open-ended working group, chaired by Norway, was established to consider all the documents on the proposed budget, many of these being draft decisions by the CPRs. Taken together, the COW had over twenty draft decisions to consider.

In the discussion on each of the six clusters, there was general satisfaction with the new Mercure satellite communication system, though some wondered when the ‘voice’ component would become active and others wanted to know what savings had resulted and when it might be extended to developing countries.

Freshwater, as it had at the 5<sup>th</sup> Special Session of the Governing Council in May 1998, attracted considerable comment as a priority item for UNEP. UNEP was encouraged to develop regional and sub-regional co-operation for sustainable water management. Most delegates supported what the Deputy Executive Director, Shafqat Kakakhel, stated was the goal to reorient production and consumption patterns towards cleaner and safer technologies, products and services that conserve water and energy, prevent pollution and reduce risks. Others called for economic instruments and incentives to promote sustainable development and to develop mutually supportive roles for trade and the environment.

Some African countries [Benin, Burkina Faso and Nigeria] wanted a separate African regional office as agreed to earlier by the Governing Council, and most supported the idea of a co-ordinating office in Nairobi to promote regional co-ordination.

Many delegations expressed support for the Regional Seas Programme, with some urging a stronger focus on the International Coral Reef Initiative. The US, Canada and Mexico expressed concern about the proposed high-level meeting on the East Central Pacific since its geographical boundaries were not yet clear.

The year 2000 computer problem [Y2K] was discussed with the Secretariat explaining action being taken in Nairobi to avoid the problem. GEF also was considered only briefly as it had been discussed in Plenary.

After protracted negotiation, Norway’s working group was able to arrive at a complete draft decision on UNEP’s budget which, *inter alia*, harmonised this with other UN bodies; broadened the funding base to include countries that have a greater capacity to pay; authorised the Executive Director to prepare a US\$120 million budget for the next biennium; provisionally increased the administrative budget provided there was an increase in the UN regular budget contribution; and, authorised the Executive Director to adjust each budget line by 20 per cent. ➔

### Comment

Even with its short timeframe, the COW was able, eventually, to agree on all of the proposed resolutions for adoption by the Plenary. While it did so in a businesslike manner, there was at times considerable frustration expressed about how best the COW should deal with subjects that were also being considered in Plenary. How were the results of these separate discussions to be reconciled? This confusion, borne in part by assigning only one budget related agenda item to COW, caused some misunderstandings and hence delays in the debate. The able Chairman and the Secretariat's efforts to assure delegates that where there was overlapping the Bureau would ensure harmonisation, did not at the time prove very persuasive. These hiccups did not, however, distract from the overall effectiveness of the COW in producing the necessary results. And this was largely the result of the impressive presentation on the budget at the outset by the Executive Director that set the general tone for the meeting.

David M. Miller

### II. Policy Issues

The Plenary met six times to discuss policy issues; the UN/GA's resolutions; results of the UN/GA's consideration of the UN Task Force Recommendations; linkages among and support to conventions; and preparations for CSD-7.

Item 4 (Policy Issues) and its four sub-items, were taken up together: a) state of the environment; b) emerging policy issues; c) coordination and cooperation within and outside the United Nations, including non-governmental organisations; and d) governance of the United Nations Environment Programme.

In considering these items the Council had before it a very large amount of documentation. This included the policy statement by the Executive Director (UNEP/GC.20/2) and his statement made at the opening meeting of the session (UNEP/GC.20/2/Add.1). In addition, the progress report of the Executive Director on the Global Environment Outlook process (UNEP/GC.20/3), supplemented by two information documents, a summary and synthesis of GEO-2000 (UNEP/GC.20/INF/8), a preliminary version of the draft assessment strategy prepared by an expert team of external consultants on environmental observing and assessment strategy (UNEP/GC.20/INF/18); and the report of the Executive Director on the environmental situation in the occupied Palestinian and other Arab territories (UNEP/GC.20/4), supplemented by a note by the Executive Director transmitting an updated report on the environmental situation in those territories (UNEP/GC.20/INF/9). It also had before it draft decisions submitted by the Committee of Permanent Representatives on the Global Environment Outlook (UNEP/GC.20/L.1), draft decision 1) and on the environmental situation in the occupied Palestinian and other Arab territories (UNEP/GC.20/L.1, draft decision 2).

Under Item 4 (b), the documentation included: the report of the Executive Director on the Programme for the Development and Periodic Review of Environmental

Law beyond the year 2000 (UNEP/GC.20/5); the report of the Executive Director on the promotion of access to information, public participation in decision-making and access to justice in environmental matters (UNEP/GC.20/45), supplemented by two information documents on communications and public information services 1999–2001 (UNEP/GC.20/INF/2) and on the study on dispute avoidance and dispute settlement in international environmental law together with the conclusions of the UNEP International Group of Experts on Dispute Avoidance and Dispute Settlement in International Law (UNEP/GC.20/INF/16\*); the report of the Executive Director on reform of INFOTERRA to ensure better public access to environmental information (UNEP/GC.20/46), supplemented by an information note by the Executive Director transmitting the Washington Statement by the members of the UNEP/INFOTERRA Advisory Committee on the reform of the UNEP global environmental information exchange network, INFOTERRA, to ensure better public access to environmental information (UNEP/GC.20/INF/17). It also had before it draft decisions submitted by the Committee of Permanent Representatives on the Programme for the Development and Periodic Review of Environmental Law beyond the year 2000 (UNEP/GC.20/L.2); on the promotion of access to information, public participation in decision-making and access to justice in environmental matters (UNEP/GC.20/L.2/Addr.1, draft decision 1); and on the reform of INFOTERRA to ensure better public access to environmental information (UNEP/GC.20/L.2/Add.1).

Under item 4 (c), delegates had before them the reports of the Executive Director on policy and advisory services of UNEP in key areas of institution-building (UNEP/GC.20/6); on the Inter-Agency Environment Coordination Group and the system-wide strategy in the field of the environment (UNEP/GC.20/7); on the participation of UNEP in the work of the GEF (UNEP/GC.20/8); on the action plan on complementarity between the activities undertaken by UNEP under the GEF and its programme of work (UNEP/GC.20/44); on

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#### \* Study on Dispute Avoidance and Dispute Settlement

The Study on *Dispute Avoidance and Dispute Settlement in International Law*, focuses on multilateral agreements. The authors note that although examples of co-operative approaches, including, *inter alia*, dispute avoidance and dispute settlement, can be found in numerous bilateral treaties, the Study by and large, does not focus on such instruments because they are specific to particular bilateral situations.

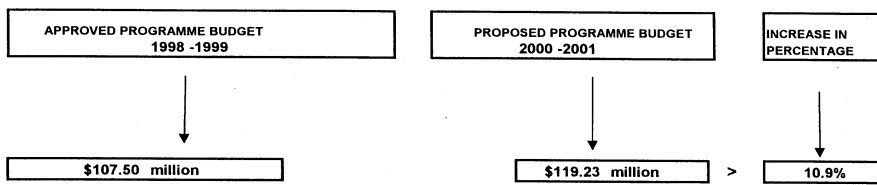
In section A of the Report, Dispute Avoidance Mechanisms in International Environmental Law, the Study covers the monitoring and collection of data; reporting mechanisms; Consultation; Inspection; Fact-finding; and Compliance procedures. Section B deals with Dispute Avoidance Mechanisms in other Areas of International Law: Human Rights; Arms Control and Disarmament; International Labour Law; Law of the Sea; and International Economic Law.

Section C, address international environmental disputes from the perspective of legal mechanisms on the domestic level; and D, International organisations and dispute avoidance.

Part IV of the Study deals with traditional dispute settlements in international environmental law and lists the recent development in international law to establish specific settlement mechanisms for environmental disputes, such as the Environmental Chamber of the International Court of Justice.

The Conclusions and Recommendations of the Experts are printed on page 143.

**UNEP FUND PROGRAMME BUDGET**

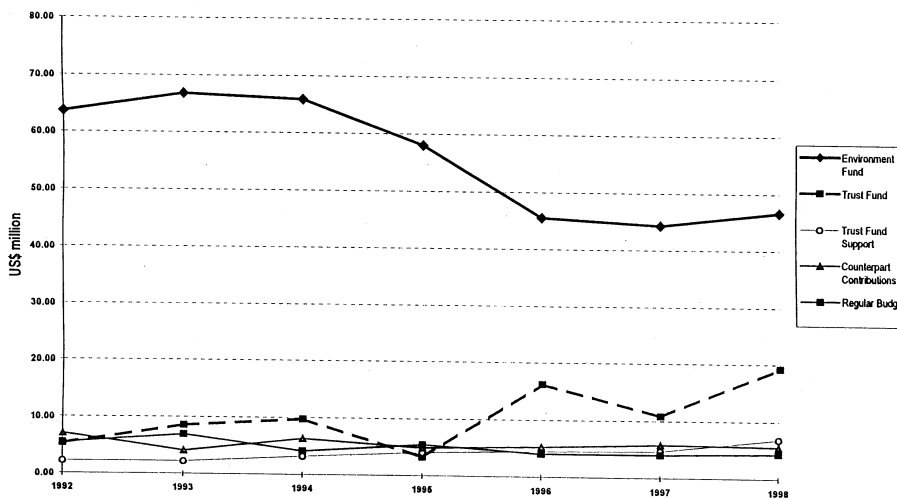


Average inflation projected for 2000-2001 = 10.3%

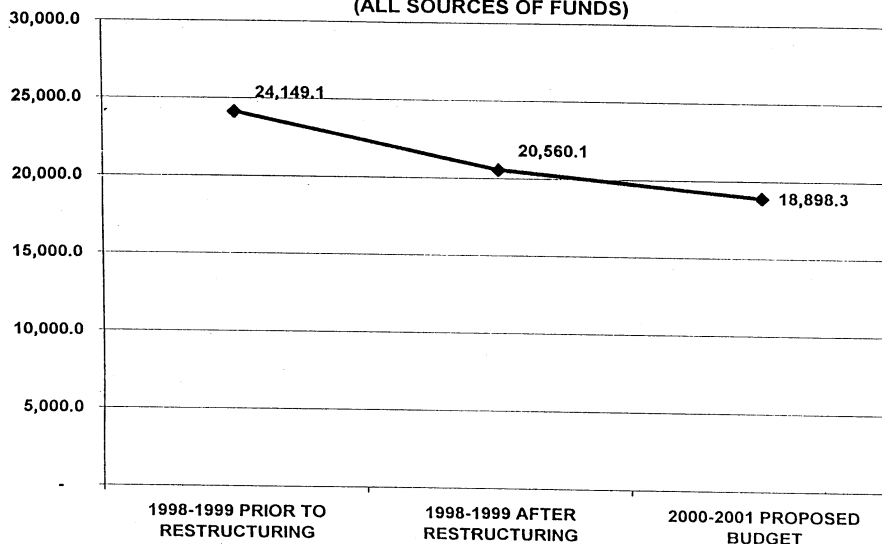
Basis for inflation rates projections:  
 3 percent for professionals  
 15 percent for general service staff  
 5 percent for non-post items

1998-1999 to 2000-2001 growth: 10.90%  
 Less inflation: 10.30%  
 Real growth: 0.60%

UNEP: CONTRIBUTIONS FOR 1992-1998 BY SOURCES OF FUNDS



EVOLUTION OF UNEP ADMINISTRATIVE EXPENSES (OOO'S OF US DOLLARS) (ALL SOURCES OF FUNDS)

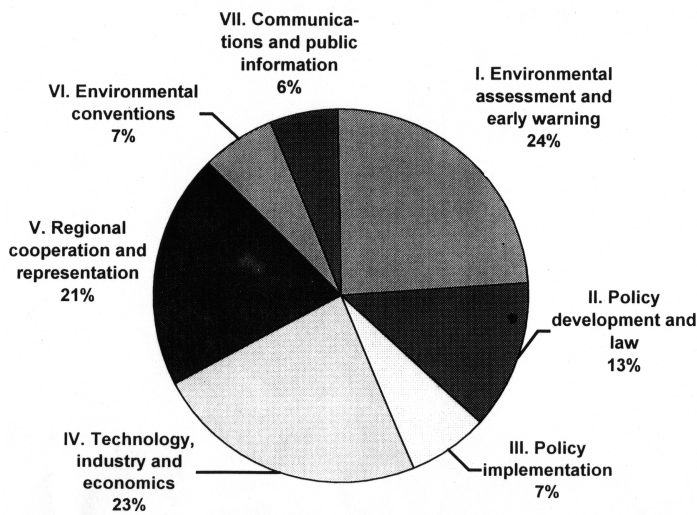


Courtesy: UNEP

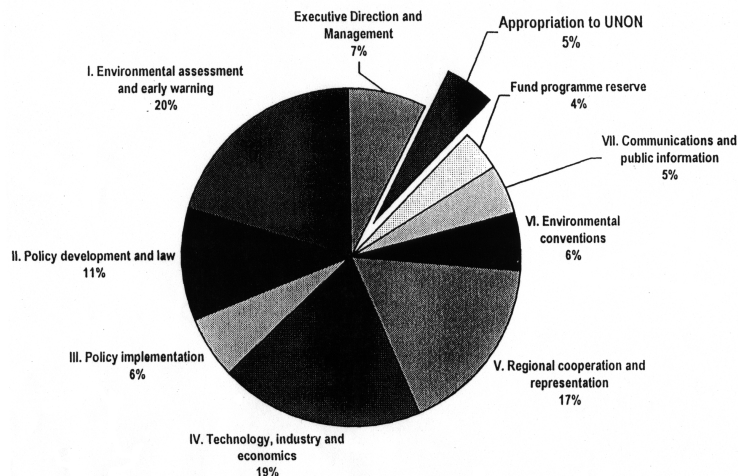
further improvement of the international response to environmental emergencies (UNEP/GC.20/9); on the role of women in environment and development (UNEP/GC.20/10); and on implementation of the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa: 1997-1998 (UNEP/GC.20/11). Those reports were supplemented by information notes on the memorandum of understanding concerning co-operation between UNEP and the other organisations of the UN system (UNEP/GC.20/INF/4 and Add.1). The Council also had before it draft decisions submitted by the Committee of Permanent Representatives on policy and advisory services of UNEP in key areas of institution-building; on GEF; on further improvement of the international response to environmental emergencies; on the role of women in environment and development; on land degradation; support for the implementation of the UN Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa (UNEP/GC.20/L.3); and on the Inter-Agency Environment Coordination Group and the system-wide strategy in the field of the environment (UNEP/GC.20/L.3/Add.1).

Under Item 4 (d) delegates had a note by the Executive Director on the report on the work of the subsidiary bodies of the Governing Council (UNEP/GC.20/12), which was supplemented by an information document containing

DISTRIBUTION OF ENVIRONMENT FUND RESOURCES FOR THE PROGRAMME OF WORK 2000-2001



ENVIRONMENT FUND - CLAIMS ON RESOURCES 2000-2001



Courtesy: UNEP

the reports of the meetings of the subsidiary bodies of the Governing Council of UNEP (UNEP/GC.20/INF/14); and the Executive Director on assessment of the functioning of the secretariat of UNEP (UNEP/GC.20/13). In addition, the Council considered a draft decision submitted by the Committee of Permanent Representatives on the report on the work of subsidiary bodies of the Governing Council (UNEP/GC.20/L.7).

### Discussion

The EU, the Czech Republic, Cuba and China, supported the second Global Environment Outlook report. Argentina supported broadening participation and efficient networking in GEO-2 report preparation. Canada supported stronger links between GEO and other UNEP

assessment work, a longer term funding mechanism or strategy and more focused, consistent data.

Palestine said the Executive Director's report on Palestine failed to address Israeli practices against the Palestinian environment and requested a more exhaustive report to address these problems. Israel emphasised scarcity of resources, particularly water, and noted cooperation with Palestinians to preserve the environment.

The Plenary adopted draft decisions submitted by the Negotiating Group on the state of the environment, issues addressing GEO and the environmental situation in the occupied Palestinian and other Arab territories (UNEP/GC.20/L.1/Rev.1).

On *GEO*, the decision urges, *inter alia*, consideration of GEO-2 findings in developing and implementing UNEP's environmental assessment, management actions policies and programmes and calls for submission to the 21st Governing Council, a GEO user profile and qualitative analysis of GEO-1 and GEO-2.

With regard to *emerging policy issues*, the EU and the Russian Federation highlighted UNEP's important role in environmental law. Cuba welcomed a new environmental law programme and continued efforts to decentralise, particularly in relation to education and training. The US, New Zealand and Colombia opposed a global right-to-know convention.

The Plenary adopted, without amendment, the draft decision on the *Programme for the Development and Periodic Review of Environmental Law Beyond the Year 2000* (UNEP/GC.20/L.2/Rev.1). The decision supports, among other things, a process for preparing a new Programme for the Development and Periodic Review of Environmental Law, and convening a meeting of government legal experts in the year 2000; and calls for assistance, on request, to developing countries and countries in this field.

The Plenary adopted draft decisions on the promotion of *access to information, public participation in decision making and access to justice in environmental matters and reform of INFOTERRA* (UNEP/GC.20/L.2/Add.1/Rev.1). Concerning *access to information*, the draft decision calls on the Executive Director to consult with governments and international organisations to seek appropriate ways of building capacity in and enhancing access to environmental information, public participation in decision making and access to justice in environmental matters; study models of national legislation, policies and guidelines; and submit a report to the 21st Governing Council.

With regard to *the reform of INFOTERRA*, among other things, the decision underscores the importance of

the right-to-know principle and highlights the need to secure the participation of all stakeholders.

Plenary also adopted the draft decision on *governance of UNEP* (UNEP/GC.20/L.6/Rev.1). With regard to the assessment of the functioning of the UNEP Secretariat, the decision notes the Committee of Permanent Representatives' report concerning the Secretariat and welcomes its recommendations, and requests keeping the CPR informed on progress made.

Concerning *coordination and cooperation within and outside the UN*, the Russian Federation highlighted UNEP's important role in co-operating with existing convention secretariats; environmental information and early warning systems; environmental emergencies; and its place in the GEF. Norway urged strategic partnerships, particularly in relation to centres of excellence and strengthened roles for NGOs. Brazil opposed NGO participation in negotiating and drafting bodies, but supported their involvement in implementation. The EU called for closer cooperation with the World Trade Organisation (WTO). The EU, Iran and India underscored the need to support the role of women. The EU, with Norway, Switzerland, China, Indonesia and Poland, supported an enhanced role of UNEP within the GEF. The United States stressed that UNEP's role in the GEF should be its comparative advantage. Indonesia emphasised strengthening UNEP's institutional capacity building activities, including support to developing countries for legal redress.

Poland expressed anxiety concerning the establishment of an Environment Management Group (EMG), preferring a more detailed analysis of failure within the Inter-Agency Environment Coordination Group. Japan and Iran urged further elaboration of the EMG concept.

While the establishment of an EMG was widely supported by many delegates, others still review it with some scepticism. Some delegates wanted to see detailed explanation of the EMG's modalities and mode of operation before lending their support.

The EU and New Zealand discouraged the establishment of an environmental emergency stand-by team. Burkina Faso said a special consultation on drought and desertification was urgent and, with the Republic of Korea, emphasised the transfer of environmentally sound technology.

Plenary adopted, without amendment, draft decisions regarding *coordination and cooperation within and outside the UN* (UNEP/GC.20/L.3/Rev.1 and UNEP/GC.20/L.3/Add.1/Rev.1). With regard to UNEP policy and advisory services in key areas of *institution building*, the decision requests strengthening the Secretariat to provide policy and advisory services, and strengthening cooperation with governments and other relevant organisations in activities related to these services.

Concerning the *GEF*, the decision supports, *inter alia*, the conclusion of the Memorandum of Understanding (MOU) between UNEP and UNDP on joint collaboration in the GEF's cross-cutting area of land degradation; a strengthened role for UNEP in the GEF; and the pro-

posed action plan on complementarity between the activities undertaken by UNEP under the GEF and its submission to the GEF Council in May 1999. (See for details last issue at page 10).

*On further improvement of the international response to environmental emergencies*, the decision calls, among other things, for further collaboration between UNEP and the Office for the Coordination of Humanitarian Affairs in assisting countries, particularly developing countries, affected by environmental disasters.

Concerning *the role of women in environment and development*, the decision supports continuing efforts made by UNEP after the Fourth World Conference on Women. With regard to *land degradation and support for implementing the Convention to Combat Desertification (CCD), particularly in Africa*, the draft decision calls, among other things, for support to African countries carrying out the CCD and securing GEF support.

With respect to *support for cooperation between the Council of Arab Ministers Responsible for the Environment and UNEP through the regional offices for West Africa and Africa*, the decision supports, *inter alia*, regionalisation and decentralisation through increased involvement and participation of regional ministerial councils.

Also included, is a decision supporting implementation of the environmental dimension of sustainable development within the UN system and extrabudgetary resources to promote practical application of methodologies for such integration.

Another decision calls on the Executive Director, in the light of the UN Secretary-General's decision to establish an Environment Management Group, to consider the need for an interagency environment coordination group.

In response to comments by previous speakers the Executive Director welcomed the views expressed on the Global Environment Outlook process, which, he said, would be the flagship of UNEP, and hoped that the second report in the series would be ready before the seventh session of the Commission on Sustainable Development. He also shared Representatives' concerns regarding the volume and timing of the documentation for the session and suggested that consideration be given to ways of consolidating and decreasing the number of documents. Finally, on the issue of the establishment of an environmental management group and its possible overlap with the Inter-Agency Environment Coordination Group, he stressed the need for a more flexible, issue-oriented consultative body to guide international environmental policy.

### III. Follow-up of General Assembly Resolutions

In considering item V, the Council had before it the report of the Executive Director on issues arising from the resolutions of the General Assembly at its fifty-second and fifty-third session and nineteenth special session, specifically calling for action by UNEP (UNEP/GC.20/14). In addition, the Council had before it a draft

decision submitted by the Committee of Permanent Representatives on issues arising from the resolutions of the General Assembly at its fifty-second and fifty-third sessions and nineteenth special session (UNEP/GC.20/L.8).

Introducing the item, the Executive Director welcomed the increased attention being given by the General Assembly to environmental matters and its strong endorsement of the work of the Governing Council, contained in resolution 53/187 of 15 December 1998. He also drew attention to resolution 52/182 of 18 December 1997, which called for strengthened integration of trade, environment and development.

Following that introduction, the Council heard a statement from the representative of India, who noted that the UN General Assembly had not formally asked the Governing Council to respond to its agenda on environmental reforms. Klaus Töpfer responded by acknowledging that a final decision for restructuring UNEP had yet to be taken by the General Assembly.

On 5 February, the Plenary adopted, without amendment, the decision on issues arising from the resolutions of the UN General Assembly specifically calling for action by UNEP (UNEP/GC.20/L.8/Rev.1, see page 137).

#### **IV. Results of the General Assembly's Consideration of the Secretary-General's Report to the Assembly at its Fifty-Third Session on Environment and Human Settlements (A/53/463)**

Agenda item 6 was taken up by the Council at its third plenary meeting. The Council had before it the report of the Executive Director on the results of the General Assembly's consideration of the Secretary-General's report to the Assembly (UNEP/GC.20/15), supplemented by two information documents – a note by the secretariat transmitting to the Governing Council the report of the UN Task Force on Environment and Human Settlements to the Secretary-General (UNEP/GC.20/UNF/3), and the note of the Executive Director transmitting to the Council the report of the Secretary-General on environment and human settlements, presented to the General Assembly at its fifty-third session (UNEP/GC.20/INF/13). The Council also had a draft decision on the subject, submitted by the Committee of Permanent Representatives (UNEP/GC.20/L.9).

Although the General Assembly had not yet concluded its consideration of the item at its fifty-third session, the Secretary-General, in his message read out to the Governing Council at the start of the session, had said that he would welcome the views of the Council thereon, especially on those aspects that would directly affect its work.

The item was introduced by the Executive Director who reviewed the background composition and work of the UN Task Force and outlined its main recommendations. (See also *Environmental Policy & Law*, Vol. 28, No. 5 at page 214.)

The longest discussion during the Governing Council was that surrounding the Task Force and its Recommendations.

The first topic of the Report is concerned with inter-agency linkages. The main concern of the Task Force was the conviction that there was a lot of overlapping and uncoordinated action in the United Nations framework concerning environment and human settlement policies. Among its recommendations for eliminating such overlap and duplication and to enhance synergy among UN organisations, the Task Force recommends the establishment of an inter-agency Environment Management Group (EMG) under the chairmanship of the Executive Director of UNEP.

The EMG would represent the first expression of the "issue management" approach outlined by the UN Secretary-General in his report on "Renewing the United Nations" and would be designed to be a problem-solving, results-oriented approach to achieve effective coordination and joint action in key environmental and human settlements issues throughout the UN system.

Delegates heard statements under the item by, *inter alia*, the representatives of Colombia (on behalf of the Group of 77 and China) and Germany (on behalf of the European Union).

The G-77 and China believe "that the report is a good departure point for achieving effective co-ordination and joint action in the field of environment and human settlements with the UN system and between the UN organisations and those outside the system. Concerning the establishment of the EMG, it supports this idea, provided that the EMG regularly seeks the views of the Member States as its input and that it be guided by the decisions of the UNEP Governing Council and the Commission for Human Settlements.

The G-77 is of the view that the regional offices of UNEP should work with governments to establish a set of regional priorities reflecting the particular needs of each region. It also thinks that the regional meetings of environment ministers, if any, should be involved in setting regional priorities in the global agenda and in promoting the adequate inclusion of those priorities in UNEP's programme of work, in line with the Nairobi Declaration.

Concerning the governance of UNEP, the G-77 supports that the Governing Council should be turned into an annual, ministerial level, global environmental forum. The Group is also in favour of the universalisation of the UNEP Governing Council. It also believes that this should not lead to the concept of assessed contributions to fund the programme.

Regarding UNEP's role in the GEF, the Group holds that it should not be limited to advice but that it should focus on Governing Council decisions to this effect. "In order to attain this the strengthening of UNEP as a GEF implementing agency becomes a high priority ..."

The G-77 also supports that greater linkages be established in the field of environment with non-governmental major groups, but these entities should not be placed on the same level as national government as they should not intervene in the decision making process reserved to governments.



“... The G-77 believes that the 20<sup>th</sup> Session of UNEP’s Governing Council should not try to reach decisions that would implement specific recommendations of the Task Force Report, because that could pre-empt the work still being done by the General Assembly on this matter.”

Germany, on behalf of the EU, said that “Questions concerning UNEP’s internal structure, performance and priority setting are closely linked to the question of the implementation of the UN Task Force Report on UN reform in the environment field.

The EU considers the report to be a first significant step paving the way for further analysis and reform of the UN-wide activities in the environment and human settlements areas.

“It is our understanding that the Secretary General will implement many of the recommendations contained in the report of the Task Force under his own authority. The EU believes that this process has to be continuously accompanied by the internal reform of UNEP.

Discussions on the Secretary-General’s report will be continued in New York after the Governing Council meeting and we hope that a resolution will be passed as quickly as possible. The EU would welcome a substantial exchange of views among the Environment Ministers at this Governing Council on *these* issues which are vital for UNEP and the global environment. A clear signal from the Governing Council will be expected. Therefore the GC should decide on concrete input for the further work in the General Assembly.

The EU certainly regards an increased ministerial presence at the Governing Council meetings of great value for the growing importance of global environmental issues. However, the proposed universal membership of the GC does not seem to be a step in the right direction as it would make the decision-making more difficult and reduce the efficiency of the GC. In any case, under current UNEP rules, every State as well as NGOs can attend as an observer and participate in discussions.”

The establishment of the Environmental Management Group is in principle welcomed as a means to better co-ordinate and integrate environmental issues and aspects within the UN system. “The EU trusts that the setting up of this group should be based on carefully drafted terms of reference describing tasks and institutional structure. Headed by the Executive Director, the EMG should report directly to the Secretary-General, thereby ensuring a maximum of support and guidance by the Secretary-General. Furthermore, due consideration should be given to the compatibility with existing UN co-ordination mechanisms such as UNDG and UNDAF.

The EU also supports the proposals to strengthen UNEP and HABITAT in Nairobi.

UNEP’s role in strengthening a better interaction between the conventions and in supporting the work of the secretariats which fall under UNEP’s regime is an equally important activity. “The proposal to locate new conventions in functional clusters deserves our attention. However, as regards existing conventions and in the

longer term the negotiation of umbrella conventions, the proposals require further consideration taking into account the status of the conventions as distinct legal entities and their legal linkages to other UN bodies as well as their nature as environmental conventions.”

At the 6<sup>th</sup> meeting of the session, the Council decided that consultations on a draft decision under the item would be pursued in an open-ended subgroup of the negotiating group established at the first meeting of the session.

The Plenary adopted, without amendment, the decision on the results of the UN General Assembly’s consideration of the Secretary-General’s report on United Nations reform: measures and proposals – environment and human settlements (UNEP/GC.20/L.9). This decision is only a few lines and simply takes note of the recommendations of the UN Task Force on Environment and Human Settlements.

Plenary also considered the decision on the Council’s views on the report of the Secretary-General on Environment and Human Settlements (UNEP/GC.20/L.14). This decision, *inter alia*, welcomes the said report; notes actions by intergovernmental bodies in linking environment-related conventions; supports the establishment of the EMG; welcomes enhanced coordination with the CSD; and agrees to consider the future role of the UNEP High-Level Committee of Ministers and Officials (HLCOM). The decision was adopted without amendment.

#### **V. Linkages Among and Support to Environmental and Environment-Related Conventions**

Under this item the Council had before it the following documentation: the relevant report of the Executive Director (UNEP/GC.20/16); the report of the Executive Director on programmatic support provided by UNEP to environmental conventions (UNEP/GC.20/17); and report of the Executive Director on international conventions and protocols in the field of the environment (UNEP/GC.20/18).

Council also had before it draft decisions submitted by the Committee of Permanent Representatives on the status of international conventions and protocols in the field of the environment; and strengthening the role of UNEP in promoting collaboration among environmental conventions and in providing programmatic support to environmental conventions (UNEP/GC.20/L.6).

In introducing the item the Executive Director recalled that the Governing Council at its fifth special session had endorsed the inclusion of “enhanced coordination of environmental conventions and development of environmental policy instruments” as one of the areas of concentration of UNEP. Consequently, he had established a Division on Environmental Conventions within the Secretariat, the strategic mission of which was mapped out in the documents before the Council under the item.

He said that the relevant draft decision before the Council would, if adopted, allow UNEP to play a more

effective role in enhancing cooperation among conventions. More details could be found in the programme budget which was currently under discussion in the Committee of the Whole.

At the invitation of the President, Michael Zammit-Cutajar, Executive Secretary of the Secretariat of the UN Framework Convention on Climate Change (UNFCCC) also made an introductory statement. He noted that the recommendations on the subject by the UN Task Force were sensible and prudent in substance and clear on the process required to give the effect. The bottom line of the Task Force report was that there was a need to work to build a strong UNEP to play a full role as a partner to the Convention. As far as linkages were concerned, while the issues could be addressed bilaterally, they would be most effectively considered through a coherent framework, which UNEP had the opportunity to provide. At the operational level, the GEF had an important role in the development of projects on linkages, while the capacities of UNDP should be drawn on for measures at the national level.

Taking into account the fact that the issue of linkages among and support to environmental conventions had been addressed in the statements made under agenda item 6, there was no general debate under this item, but later the US representative made a statement on this point. He noted that the Task Force Report recommends "the collocation of new conventions with other conventions in the same functional clusters. The authority to make this decision resides with government parties to each convention. We would wish to avoid potential confusion that could materialise if collocation is used as an umbrella for conventions that are, in reality, disparate. While there may be occasional advantages of linking among conventions, at this point, we do not believe it is appropriate to move to 'fuse' secretariats."

The decision (UNEP/GC.20/L.6/Rev.1, see page 136), calls on States to sign, ratify and accede to conventions and protocols. It supports an intensified role for UNEP in stimulating and supporting collaboration among environmental conventions, and calls on UNEP to enhance interlinkages among scientific and information monitoring processes and to identify opportunities for synergies.

## VI. Preparations for the Seventh Session of the Commission on Sustainable Development

In considering this item the Council had before it the following documentation: The reports of the Executive Director on the contribution of UNEP to the Commission at its seventh session, on UNEP activities regarding small island developing States (UNEP/GC.20/19); on UNEP activities regarding oceans management (UNEP/GC.20/19/Ad.1); on UNEP activities regarding tourism (UNEP/GC.20/19/Add.2); and on the role of UNEP in the promotion of sustainable production and consumption (UNEP/GC.20/42). Those reports were supplemented by an information note by the Executive Director circulating position papers prepared for submission to

the Commission on Sustainable Development by the small island developing States in the Indian Ocean, Mediterranean and Atlantic regions and by the Pacific island countries (UNEP/GC.20/INF/15).

The Council had also a draft decision submitted by the Committee of Permanent Representatives on UNEP's contribution to the seventh session of the CSD (UNEP/GC.20/L.4) on oceans and seas, the Global Programme of Action in the Protection of the Marine Environment from Land-based Activities, on sustainable tourism, on small island developing States, and on changing production and consumption patterns (UNEP/GC.20/L.4/Rev.1).

Introducing the item, Shafqat Kakakhel drew attention to salient points in the papers prepared by the Secretariat and explained that, in response to the recommendation of the small working group set up to consider the issue, it had been decided to combine the separate draft decisions that had been prepared under the item into a single, omnibus decision, but that the text of that omnibus decision had not been considered by the Committee of Permanent Representatives.

At the invitation of the President, Joanne Disano, representing the Secretariat of the Commission on Sustainable Development, also made an introductory statement, in which she reaffirmed the need for a strong and effective UNEP and hoped that the contribution sent by UNEP to the forthcoming session of the Commission would clearly identify the role of UNEP in the Commission's activities.

Following these introductory statements, the Council heard statements under the item from many representatives.

Concerning *Small Island Developing States (SIDS)*, New Zealand welcomed work on SIDS; Malta, on behalf of SIDS, Jamaica and Norway, highlighted the vulnerabilities of these islands, particularly with respect to climate change. On *Oceans Management and Marine Pollution*, New Zealand, with Iran, Tunisia, Japan, Burkina Faso, Canada, the EU, Australia, Jamaica, Bangladesh, Norway and Malta, on behalf of SIDS, strongly endorsed UNEP's Regional Seas Programme. Australia opposed using the Programme as a framework for the development of regional commissions for the sustainable development of oceans, as their mandate goes beyond that of the Regional Seas Programme. Japan and Iceland suggested that fisheries management be undertaken by FAO. The US encouraged cooperation between UNEP and FAO. Burkina Faso and the EU endorsed UNEP's work on land-based sources of marine pollution, with New Zealand calling for accelerated action. Iceland and Norway supported a clearinghouse mechanism on marine pollution. Canada emphasised coastal zone management.

Concerning *Sustainable Tourism*, Iran urged caution in standardising guidelines for sustainable tourism at the regional and national levels. Canada urged synergies with the Convention on Biological Diversity's work on sustainable tourism. The EU said UNEP should continue



*The President of Kenya, Daniel Arap Moi, addressing the High-Level Segment*

its work on voluntary initiatives, codes of conduct for the tourism industry, and integration into relevant conventions. The Republic of Korea stressed distribution of benefits to local residents and technical and financial support from UNEP.

With regard to *Sustainable Production and Consumption*, New Zealand welcomed work on this item and encouraged market-based incentives. The EU emphasised cleaner production and innovative ways of organising and fulfilling consumption needs and consumption patterns.

Jacqueline Aloisi de Larderel, Director, Technology, Industry and Economics Division, and Jorge Ilueca, Assistant Executive Director Division of Environmental Conventions, responded to questions and concerns raised by speakers. It was also clarified that the papers before the Council would be revised to incorporate improvements suggested by representatives and submitted as background papers to the CSD at its seventh session, while the omnibus decision to be adopted by the Council would be forwarded as its recommendation to the Commission.

The Plenary adopted, without amendment, the draft decision on UNEP's contribution to CSD-7 (UNBEP/GC.20/L.4/Rev.1), which is printed on page 125.

### **Roundtable Discussion**

On 5 February, an informal ministerial roundtable was convened under the chairmanship of President Miklos.

Discussions covered a wide range of topics, including the establishment of green tax systems; the loss of species; the social concerns of desertification; the environmental concerns of over-fishing; the importance of environmental education; and the importance of integrating environmental concerns in trade discussions.

### **High-Level Segment**

On the 4 February, the Governing Council commenced its proceedings with the inauguration of the

Memorial Garden at the Gigiri complex of the UN Office at Nairobi (UNON), to commemorate the victims of the 7 August 1998, bomb blasts at the US embassies in Nairobi and Dar es Salaam.

Following the inauguration ceremony, the Governing Council commenced the high-level segment of the session and heard statements by Ministers of environment and their representatives, as well as by other specially invited speakers.

Never before had so many ministers and senior officials attended the Governing Council, which suggested to all present that UNEP is now on the road to recovery.

The statements dealt with topics such as UNEP's reform and revitalisation; UNEP's five areas of concentration: environmental information, environmental convention coordination, freshwater, technology transfer and support to Africa; and budget-related issues.

Ministers and delegates warmly welcomed the innovative and informal roundtable discussion on the last day.

Many delegates noted a renewed confidence in UNEP and optimism regarding its future. They supported restructuring and strengthening UNEP as well as the recommendations of the UN Task Force on Environment and Human Settlements.

Japan said implementation of the Nairobi Declaration is essential to strengthening UNEP, but that the UN Task Force's recommendations need further consideration.

Zimbabwe emphasised government involvement in UNEP's reform. Ghana supported universal membership of the Governing Council, as it would assist in UNEP's revitalisation. Colombia said the duration of the Governing Council was inadequate, called for regional ministerial meetings to set priorities, and supported the idea of an open-ended Governing Council.

The EU, with China and Hungary, supported consideration of an annual ministerial forum. Many countries, including Canada, Nigeria, Jamaica, Thailand, China, the UK and France, supported the establishment of the EMG, with Thailand, China and the UK calling for further discussion on the criteria for member selection.

Finland emphasised integration of environmental, social and economic issues at all levels of the UN system, as envisioned by the establishment of the EMG. France supported frequent ministerial fora to improve links between UNEP and the CSD.

On financial and budgetary issues, Kenya, Mexico, Denmark and Poland, called for increased financial contributions to support UNEP. Japan assured delegates it would maintain its contribution in 1999 and the US said it hoped to increase its contributions. China said volun-

tary contributions should be the primary source. Colombia supported the proposed budget as a minimum and said UNON's operational costs should be incorporated within the general budget of the UN. The UK emphasised adequate, stable and predictable resources particularly through the Environment Fund. Cuba stated that the budget was inadequate.

Concerning UNEP and the GEF, Uganda emphasised access to GEF funds to ensure implementation of UNEP's programmes. Switzerland, China and Thailand supported strengthening UNEP's role in the GEF.

On chemicals, many delegations, including the EU, Poland, Colombia, the Republic of Korea, Ghana, Canada and Iceland, strongly supported the ongoing negotiations for a convention on Persistent Organic Pollutants (POPs), and France highlighted the decisive role played by UNEP. Uganda called for UNEP support to assist developing countries to implement biosafety, POPs provisions and the provisions of the Convention on Prior Informed Consent (PIC). Colombia, Ghana and Hungary welcomed the adoption of the PIC Convention. Denmark highlighted uncontrolled dumping of chemicals in the developing world and with the Netherlands, supported a global convention on chemicals.

With regard to trade and development, Denmark stated that strong provisions for social and environmental protection and human rights were preconditions for free trade. The Netherlands and Switzerland also supported linking trade and environment. Brazil said the provisions of global environmental conventions should not constitute non-tariff barriers to trade or access to export markets in developing countries. The EU underlined that trade and environment must be mutually supportive and encouraged UNEP to play a lead role in encouraging this. The UK delegate said UNEP should command respect on an equal footing with the WTO and urged UNEP to participate in the upcoming WTO High-Level Symposium on Trade and Environment in March 1999.

On development issues, Uganda and Burkina Faso emphasised interlinkages between development and the environment and said the latter cannot be addressed without also addressing poverty alleviation. Botswana highlighted the challenge to the international community of linking natural resources and human settlements. The World Bank noted the link between poverty and environment, and said the policy of "grow now and pay later" has resulted in high environmental costs.

Canada underlined the importance of freshwater management. Monaco and Tunisia stressed the importance of the protection of the marine environment.

Cuba, Tunisia, Thailand, Tanzania and others, supported strengthening regional offices. India called for clearly defined responsibilities for regional offices, taking into account developing country concerns.

Several African countries, together with the UK and France, emphasised enhanced support for Africa and many called for strengthening Africa's regional office.

Brazil said that UNEP should alert the international community to new environmental threats and promote negotiation of new environmental conventions.

On oceans, Samoa welcomed UNEP's involvement in reviewing the Barbados Plan of Action on the Sustainable Development of Small Island Developing States. The UK urged UNEP to be a more effective source for action on oceans and supported revitalising the Regional Seas Programme in collaboration with other organisations.

Some delegates were dismayed that although there was a lot of talk (too much, many said), very little of a substantive nature came out of the two days. Other delegates pointed to the positive proposals concerning expanding the Regional Seas Programmes to include fisheries, placing UNEP on an equal footing with the World Trade Organisation, and developing global conventions on chemicals and environmental crime.

The Plenary met to consider and adopt draft decisions on: the promotion of access to information (L.2/Add.1/Rev.1); reform of INFOTERRA (L.2/Add.1/Rev.1); linkages among environmental conventions (L.6/Rev.1); and governance of UNEP (L.6/Rev.1). Plenary also adopted several draft decisions contained in L.5/Rev.1 on: regional offices; specialised offices; Global Programme of Action for the Protection of the Marine Environment from Land-based Activities; regional seas programme for the East Central Pacific; coral reefs; PIC Convention; and Ombudsman Unit.

The draft decision on the Environment Fund and administrative and other budgetary matters (L.5/Add.1/Rev.1) was adopted with an ad referendum reservation by Japan. The decisions on Global Environment Outlook and the environmental situation in the occupied Palestinian and other Arab territories (L.1/Rev.1) were adopted. The report of the Committee of the Whole (L.12) was taken note of.

### Closing Plenary

The Rapporteur presented the report of the meeting (UNEP/GC.20/L.1) and the report of the High-Level Segment (UNEP/GC.20/L.11/Add.1), which were adopted by the Plenary.

Representatives from the regional groups made closing statements in which they thanked the Bureau, the Secretariat and Klaus Töpfer for their work.

The Executive Director expressed gratitude to all who had helped to create an atmosphere of dialogue and fair compromise, and stressed the importance of commitment to implementation.

In his closing remarks, President Miklos underscored the importance of realising the spirit of environment and life that is behind all of the documents, and hoped the same spirit would be retained at the United Nations office in Nairobi.

The next session of the Governing Council is scheduled from 5–9 February, 2001, in Nairobi. (MJ) □

*(The Decisions adopted by the Governing Council are printed on pages 123–137.)*