

UNITED NATIONS ACTIVITIES

UN / MDGs

The Human Rights to Food and Water

by Karin Kortmann*

Food and water are scarce and valuable commodities in many regions around the globe. Even today, an estimated 850 million people are suffering from chronic hunger. Some 900 million people around the world have no access to drinking water. More than twice that number, *i.e.*, 2.5 billion people or about 40 per cent of the world's population, have no access to basic sanitation. Every year, more than three million people die as a result of drinking or using polluted water.

Just how dire the food situation is in many developing countries is now becoming clear because of the international food crisis. The continuing rise in the price of staple foods and seeds, the inequitable distribution of land and natural resources, the contamination of water supplies and soil, and climate change are only some of the mutually reinforcing factors that are exacerbating food and water scarcity, thereby further worsening existing poverty levels. In many countries, the current food crisis is threatening to undo the development progress of the past few years.

It is not a question of the availability of these resources as such. Many experts say that, in principle, there is enough water and food in the world for everyone. Poverty and hunger are man-made problems: they are caused by the unequal and unfair distribution of public goods, which affects primarily the poorer populations in developing countries.

Against this background of global developments, human rights become even more important as a universal and binding framework under international law which serves as a point of reference for government action.

The human rights to food and to water are enshrined in the International Covenant on Economic, Social and Cultural Rights (known as the "Social Covenant"), which has been ratified by 159 countries to date. All of these countries – including Germany – have thereby legally committed themselves to providing an enabling environment for an adequate standard of living and a dignified life for all. In this connection, the minimum standards of the human rights to food and to water must be ensured.

The human right to adequate food enshrines that all people must have access to safe and nutritious food. Access to food can be secured by producing one's own by means of subsistence farming or through the procurement and provision of food through distribution networks and markets.

The human right to water derives from numerous international documents and conventions. They all state that the provision of safe water and basic sanitation is not an act of charity. Rather, people have a right to expect their government to do whatever it can to provide all of its people with access to water and sanitation.

Sanitation and safe drinking water go hand in hand because access to safe drinking water can only be ensured if measures to prevent water from becoming polluted or contaminated are put in place at the same time. That is why the right to water includes the provision of basic sanitation. When one considers the diseases that can be caused by polluted water, it becomes clear how important wastewater management is for people to be able to live in a healthy and dignified manner.

The Millennium Development Goals

Far too many people on this earth do not yet enjoy the human right to food or the human right to water and basic sanitation. That is why two of the Millennium Development Goals (MDGs 1 and 7) agreed by the international community focus on eradicating extreme poverty and hunger and ensuring environmental sustainability, respectively.

The international conference convened by the UN Secretary-General in September 2008 to review the progress made so far in reaching the MDGs clearly showed that the international community must make greater, more effective and more vigorous efforts to achieve these goals. The conference concluded that the goal of halving extreme poverty by 2015 (MDG 1) had the greatest prospect of being achieved. Lagging behind, by contrast, is progress towards reaching the target of halving the proportion of people who suffer from hunger (MDG 1c). The situation is being exacerbated by the negative effects of the global food crisis. Only by redoubling current efforts will it be possible to reach MDG 7, in particular the target of halving the proportion of people without access to drinking water and sanitation.

Improved access to food, water and sanitation contributes towards achieving other Millennium Development Goals, such as enhancing educational opportunities, promoting gender equality and improving people's health, especially that of children. It is especially lack of food, polluted water and inadequate sanitation that are a major cause of disease, and a cause of death especially amongst children under five. They also reduce educational opportunities and lessen the economic productivity of

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those affected – especially women and girls, because it is they who traditionally spend much of their time fetching and carrying water. This is a task that bears health risks and takes up time that could otherwise be used for learning. Added to that, school enrolment of girls is often negatively affected when schools lack toilet facilities that girls can also use.

Global Food Security

Since the mid-1980s, donors and partner countries have greatly neglected activities geared towards rural development and support for agriculture. Many developing countries have now become net importers of food because, amongst other things, their domestic products can hardly compete with subsidised exports from the industrialised countries. In response to the world food crisis, the new UN Special Rapporteur on the Right to Food has urged that responses to the crisis must take greater account of the human right to food.

In development cooperation, too, it is now vital to make up for the shortfalls in support for rural development in partner countries. Greater investments will again be made in agricultural production, in particular in the regions that are most vulnerable to the effects of climate change.

From a human rights point of view, the current food crisis calls upon us, in the short term, to implement development measures which will ensure that small farmers are again able to cultivate sufficient food crops in the coming season, and that the productive resources they need are available. That is why investments and, in particular, crash programmes for the procurement of seeds, fertilisers and loans for smallholders are to be enhanced. And generally, we must pay attention to environmental sustainability in the use of natural resources, and to the active inclusion of



all population groups, especially women. That is the only way of ensuring that current and future generations will have enough food to feed themselves.

In the medium and long term, the developing countries must receive support to enhance their social security systems. Such systems can lessen the risk of poverty and provide a basic financial safety net – which can be used to buy food, for instance.

In its development policy action plan on human rights 2008–2010, Germany's Ministry for Economic Cooperation and Development has also put a clear focus on the delivery of the human right to food. For example, we are calling for the standards and actions negotiated by the FAO in its "Voluntary guidelines to support the progressive realization of the right to adequate food" to be applied in practical development work. There is a bilateral fund in the

FAO's Right to Food Unit which is being used to assist partner countries in realising the right to food.

Conclusion

From a human rights point of view, the following is clear: the universal realisation of the human rights to food and to water will continue to require enormous efforts that address, in particular, the living conditions and problems of the women and men who live in rural areas and in poor urban districts – often illegal slums. This will require, first and foremost, more equitable access to the natural resources of land, water and seeds, as well as to credit.

Water and food are key to the future of humanity. Safe water and adequate food mean improved health, education, welfare and development. There is a direct link between the realisation of the human rights to food and to water – as well as the other human rights – and the chance of escaping poverty.



UN / 63rd GA

Final Report

by Rebecca Paveley*

The sixty-third session of the General Assembly concluded the main part of its proceedings on 23 December 2008. The session had been dominated by increasingly gloomy news from the world's financial markets, and the food and energy crises. These crises underscored all debates during the session, particularly those in plenary. General Assembly President Manuel d'Escoto Brockmann (Nicaragua) praised the work of members, highlighting in particular the efforts made towards achieving the Millennium Development Goals. On the eve of the session, in a high-level meeting on the Goals, world leaders had also adopted a political declaration on Africa's development needs.

The General Assembly adopted 57 texts submitted through its First Committee (Disarmament and International Security) on issues such as accidental or unintentional use of nuclear weapons, the banning of cluster munitions, ratifying the nuclear test ban treaty, the illicit brokering in small arms and supporting global efforts to prevent weapons getting into the hands of terrorists.

After intense discussions in the Second Committee (Economic and Financial) on subjects such as food security, climate change and the energy crisis, the Assembly adopted – by a recorded vote of 123 in favour to one against (United States) – a resolution on the economic situation and its impact on development. This was among 34 development-related texts that were adopted after being put forward by the committee. Other related texts

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expressed concern about the effect of the financial crisis on developing countries and there were also a number of other resolutions on climate change, sustainable development and international trade, such as a resolution on the oil slick off Lebanese shores requesting that Israel promptly and adequately compensate Lebanon and Syria for the costs of repairing the environmental damage.

The Third Committee put forward 58 resolutions and six decisions, focusing on strengthening the existing human rights framework during the 60th anniversary year of the Universal Declaration of Human Rights. These included a new Optional Protocol to the International Covenant on Economic, Social and Cultural Rights which established an individual complaints procedure for violations of economic, social and cultural rights.

Resolutions on the use of space technology in mitigating the effects of climate change, and the militarisation of space were among 23 resolutions and three draft decisions adopted by the General Assembly on the recommendation of the Fourth Committee (Special Political and Decolonization).

The Fifth Committee (Administrative and Budgetary) also prepared the groundwork for the organisation's next budget proposal, by agreeing on an outline for 2010–2011 budgeted at US\$4.87 billion, and making recommendations to the Assembly on the organisation's eight main priorities and the biennial programme plan.

The Assembly adopted 12 resolutions and two decisions contained in 16 reports of its Sixth Committee (Legal), including resolutions on the Law Commission's report on shared natural resources and three resolutions related to a legislative guide on secured transactions and to a Convention on contracts for the international carriage of goods wholly or partly by sea.

This report will provide an overview and summaries of resolutions adopted during the session, particularly those of environmental or legal import. It forms the conclusion of the report on the UN/GA 63 begun in the last issue. It begins with an in-depth report of both the discussion and resolutions agreed on the subject of Oceans and the Law of Sea, which occurred too late to be included in the first report.¹

Oceans and the Law of the Sea²

The debate on oceans and the law of the sea took place in plenary session on 4 December 2008, at a time of a surge in piracy and armed robbery incidents in the seas around Somalia. Concern over the recent increase in such incidents was expressed, though delegates were also very conscious – and stated it repeatedly – of the need not to trespass on national sovereignty rights. Indonesia's delegate said the Somali situation showed the need to build the capacity of coastal states to combat piracy.

Delegates also focused on the work of the Commission on the limits of the Continental Shelf, as some countries sought to delineate the outer limits of their continental shelf beyond 200 nautical miles. Developing countries called for an extension to the 13 May 2009 deadline for submissions to the Commission.

Jamaica, speaking on behalf of the Caribbean Community (Caricom) expressed its support for efforts to counter the impact of climate change on marine, freshwater and other coastal ecosystems. As in previous years, it called for an end to the use of the Caribbean Sea as a transit route for nuclear materials.

Two resolutions were introduced: a 13-part resolution on sustainable fisheries and a 27-part resolution on oceans and the law of the sea.

Oceans and the Law of the Sea (A/RES/63/111)

By this resolution, the Assembly expresses its concern at the impact of the destruction of marine habitats from land-based activities. It also addresses issues like the implementation of the Convention on the Law of the Sea; marine safety and security and the continental shelf; the peaceful settlement of disputes; the need to increase marine scientific research; coral reef management; and capacity-building support for small island developing states (SIDS). The Assembly adopted the draft resolution by a recorded vote of 155 in favour to one against (Turkey), with four abstentions (Colombia, El Salvador, Libya and Venezuela) on 5 December.

Sustainable Fisheries (A/RES/63/112)

This resolution is concerned with the conservation and management of straddling fish stocks and highly migratory fish stocks. The Assembly calls upon states to develop more effective measures to track fish and fish products around the globe, to ensure their legal origin; demands the urgent reduction in the capacity of the world's fishing fleets; calls for a precautionary and ecosystem approach to fisheries management and improved regulation of shark fishing; calls for financial help for the smallest developing states and SIDS to develop their capacity to exploit fishing resources; demands states do all in their power to ensure ships sailing their flag don't participate in transshipment of fish caught by illegal or unregulated fishing; calls for immediate action to protect vulnerable marine ecosystems from destructive fishing patterns. This was adopted without a vote on 5 December.

Doha Declaration on Financing for Development: Outcome Document of the Follow-up International Conference on Financing for Development to Review the Implementation of the Monterrey Consensus (A/RES/63/208)

By the terms of this text, the Assembly endorsed the outcome document of the Follow-up Conference –



Courtesy: UN

held in Doha, Qatar from 29 November–2 December – including its call for the UN to hold an urgent high-level conference in the next few months to examine the impact of the world's financial crisis on development. The text, which reaffirmed commitments outlined in the Monterrey Consensus to combat poverty and advance development, also examined the ways in which developed and developing countries could deepen their partnership in such areas as domestic and international resource mobilisation, trade, international financial and technical cooperation, external debt and systemic issues in global monetary, financial and trading systems. The need for policies that linked economic considerations to social ones was also underscored in the text, as was the need for greater efforts to mobilise more resources for the special care of persons with disabilities, older persons, women and children. There was also a commitment to stay fully engaged to ensure effective follow-up to the implementation of the Monterrey Consensus. It was adopted by consensus on 24 December.

Follow-up to and Implementation of the Mauritius Strategy for the Further Implementation of the Programme of Action for Sustainable Development of Small Island Developing States (A/RES/63/213)

This resolution urges all governments, the Global Environment Facility and all relevant organisations to take all necessary steps quickly to follow up and implement the strategy and declaration. The Assembly also calls upon the international community to help SIDS adapt to climate change. This was adopted without a vote on 19 December.

Natural Disasters and Vulnerability (A/RES/63/217)

By this, the Assembly asks developed countries to provide better resources and technology to help developing countries that are more vulnerable to natural disasters. It expresses its deep concern over the number and scale of recent natural disasters and their consequences for SIDS, least developed countries and other vulnerable countries. The impact of natural disasters is severely hampering efforts to achieve the Millennium Development Goals, it emphasises. It also stresses the importance of the Hyogo Declaration and the Hyogo Framework for Action. This was adopted without a vote on 19 December.

International Strategy for Disaster Reduction (A/RES/63/216)

This calls upon the international community to step up efforts to implement the Hyogo documents, and to continue providing voluntary financial contributions to the UN Trust Fund

for Disaster Reduction. It also asks for governments and other international bodies, as well as the private sector and civil society, to invest in disaster risk reduction. It calls on member states to integrate early warning systems into their disaster risk reduction strategies. The Assembly adopted this resolution without a vote on 19 December.

International Cooperation to Reduce the Impact of the El Niño Phenomenon (A/RES/63/215)

Also adopted without a vote on 19 December, by this resolution the Assembly calls upon the international community to increase help to countries affected by El Niño and strengthen the International Research Centre on El Niño in Guayaquil, Ecuador.

Implementation of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification Particularly in Africa (A/RES/63/218)

By this, the Assembly reaffirms its resolve to address the causes of desertification and land degradation and the poverty that ensues by mobilising adequate and predictable financial resources, technology transfer and capacity building. The Assembly also repeats its call upon Governments, where appropriate and in collaboration with relevant multilateral organisations, to integrate the issues of desertification and land degradation into their sustainable development plans and strategies. It asks the Global Environment Facility to substantially increase its resource allocation to land degradation at its next replenishment. This was adopted without a vote on 19 December.

International Year of Chemistry (A/RES/63/209)

Adopted without a vote, this designates 2011 the International Year of Chemistry and establishes the United Nations Educational, Scientific and Cultural Organization (UNESCO) as the lead agency for the year. It also stresses that chemistry education is key to addressing the challenge of global climate change, providing sustainable sources of clean water, food and energy, and maintaining a healthy environment for everyone.

Towards the Sustainable Development of the Caribbean Sea for Present and Future Generations (A/RES/63/214)

Calls upon the UN and the international community to help Caribbean countries and regional organisations protect the Caribbean Sea from shipping pollution, illegal dumping and hazardous waste. It also expresses deep concern at the destruction and devastation caused to the area by increased hurricane activity in recent years and calls for long-term aid for disaster relief.



Some of the biodiversity of a coral reef.

Courtesy: Wikipedia

It also recognises the Caribbean Sea as a special area in the context of sustainable development and calls on states to work immediately to halt the loss of marine biodiversity in the area, particularly in coral reefs and mangroves. Adopted without a vote on 19 December.

Convention on Biological Diversity (A/RES/63/219)

This resolution was adopted by consensus on 19 December. It calls on developed countries to contribute to the relevant trust funds of the Convention, to allow developing countries to participate more fully. It urges all member states immediately to fulfil their WSSD commitments to significantly reduce the rate of biodiversity loss by 2010. It notes this will require new and additional financial resources to developing countries. It also urges the transfer of technology for the effective implementation of the Convention.

Report of the Governing Council of the United Nations Environment Programme on its Tenth Special Session (A/RES/63/220)

This was also adopted without a vote on 19 December and by the text, the Assembly calls for further advances and implementation of the Bali Strategic Plan for Technology Support and Capacity Building and calls on governments who are able to provide the necessary funding and technical assistance. It also emphasises the need for UNEP to contribute further to sustainable development programmes, implementation of Agenda 21 and the Johannesburg Plan of Implementation. It also calls on governments, where possible, to increase their contributions to the Environment Fund.

Implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the Outcomes of the World Summit on Sustainable Development (A/RES/63/212)

(See also report on page 7)

By this text the Assembly calls upon all stakeholders to act to ensure the effective implementation of and follow-up to the commitments, programmes and time-bound targets adopted at the 2002 World Summit. It also calls on member states to express their views on the possibility of convening a high-level event on sustainable development and asks the Secretary General, in his report on Agenda 21, to include the views expressed and consider the matter further at the sixty-fourth session of the General Assembly. Adopted on 19 December without a vote.

The Rule of Law at the National and International Levels (A/RES/63/128)

Through this resolution, the Assembly reaffirms its own role in encouraging the progressive development of international law and its codification. It stresses the importance of adhering to the rule of law at national levels and of strengthening States' ability to implement international obligations by improving technical assistance and capacity building. The Assembly also expresses its full support for the Rule of Law Coordination and Resource Group.

The International Court of Justice and the United Nations Commission on International Trade Law will be invited to comment on how they are promoting the rule of law. Adopted without a vote on 11 December.

Report of the International Law Commission on the Work of its Sixtieth session (A/RES/63/123)

This resolution thanks the International Law Commission for its work, particularly for its work on the law of transboundary aquifers under the topic "Shared Natural Resources" and for the first reading of draft articles on "effects of armed conflicts on treaties". The Assembly draws the attention of governments to the importance of providing the Commission with views on "reservations to treaties", "responsibility of international organizations" and "protection of persons in the events of disasters". Comments and observations on "effects of armed conflicts on treaties" should be submitted to the Commission by 1 January 2010. This resolution also welcomes increased dialogue between the ILC and the Sixth Committee at the sixty-third session and calls for further cooperation via informal consultation. Adopted without a vote on 11 December.

The Law of Transboundary Aquifers (A/RES/63/124)

Here, the Assembly takes note of the draft articles on the law of transboundary aquifers presented by the Commission and commends them to Governments. It encourages concerned States to make appropriate bilateral or regional arrangements for proper management of their transboundary aquifers and would include the item in the provisional agenda of the Assembly's sixty-sixth session. Adopted without a vote on 11 December.

International Cooperation in the Peaceful Uses of Outer Space (A/RES/63/90)

This text calls on States that have not yet become parties to the international treaties governing the uses of outer space to consider ratifying or acceding to those treaties. It also urged all States, in particular those with major space capabilities, to contribute actively to the prevention of an arms race in space. It calls on member states to pay more attention to the problems of collision of space objects with space debris and calls for the development of improved technology for the monitoring of space debris. It also emphasises the need to increase space technology's benefits, and to contribute to an orderly growth of space activities favourable to sustained economic growth and sustainable development in all countries, including mitigation of the consequences of disasters. Adopted by consensus on 5 December.

Prevention of an Arms Race in Outer Space (A/RES/63/40)

The Assembly, recognising that prevention of an arms race in outer space would avert a grave danger for international peace and security, calls upon all States – in particular those with major space capabilities – to contribute actively to the goal of the peaceful use of outer

space, and to refrain from actions contrary to that goal and to the relevant existing treaties, in the interest of maintaining international peace and security and promoting international cooperation. The resolution also urges States conducting activities in outer space to keep the Conference on Disarmament informed of the progress of bilateral and multilateral negotiations. As in previous years, a recorded vote was needed to adopt the resolution on the prevention of an arms race in outer space, which

passed by 177 in favour to one against (United States) with one abstention (Israel).

Notes

1 The first report covered debates up to 5 November 2008, and appeared in *EPL* 38/6.

2 Text of all the resolutions adopted in the 63rd session can be found at un.org/ga/63/resolutions.

All environment-related decisions of the 63rd General Assembly are published in *International Protection of the Environment: Conservation in Sustainable Development* (USA: Oxford University Press)



Report and Decision on Implementation of Agenda 21

The report of the Secretary-General on progress in the implementation of Agenda 21 (A/63/604) was prepared pursuant to General Assembly resolution 62/189. It “provides an update on actions taken by Governments, organisations of the United Nations system and major groups in advancing the implementation of sustainable development goals and targets, including through partnerships for sustainable development”. It also provides an update on the various activities of Governments and other stakeholders in this field, stressing that all should stay on track in implementing these goals, while aiming for accelerated progress.

Readers should note, however, that the report, which was published on 18 August 2008, was compiled many weeks before this date when the full extent and severity of the worldwide financial and economic crisis was not fully appreciated. Since then, it is generally agreed that the situation has become much worse. Now, at the beginning of 2009, confronted with the most severe economic and fiscal challenges for more than 60 years, the outlook for positive change is not a short-term one. This situation will undoubtedly adversely affect most programmes geared to the alleviation of poverty and profoundly challenge the attainment of the Millennium Development Goals (MDGs) within the agreed time-frame.

The Secretary-General’s report should be read in conjunction with others submitted under the agenda item

on sustainable development, including those related to the United Nations Environment Programme (UNEP), the United Nations Human Settlements Programme, the Convention on Biological Diversity, the United Nations Framework Convention on Climate Change and the United Nations Convention to Combat Desertification, Particularly in Africa, including the report on matters relating to the small island developing states and the development of the Caribbean Sea for present and future generations.

The report starts by noting that the international community is currently tackling multiple challenges arising from the food and energy crises. These interlinked challenges are adversely affecting the most vulnerable populations and are impeding necessary progress towards the achievement of the internationally agreed development goals, including the MDGs. Some examples from the report highlight these challenges: According to the UN Food and Agriculture Organization, the number of hungry people increased by about 50 million in 2007 as a result of high food prices. A new study by the International Monetary Fund pointed out that higher food prices have cost a group of 33 net food-importing developing countries US\$ 2.3 billion since January 2007 and the situation has deteriorated further in recent months. The World Bank estimates that annual income foregone in areas immediately affected by desertification amounts to approximately US\$ 42 billion each year at the global level. The indirect



Nomadic herders at a water hole in the Thar desert in Northern India

Courtesy: Fotolia

economic and social costs suffered outside affected areas, including the influx of “environmental refugees” and losses to national food production, may be much greater.

In many countries, governments have applied the principles of sustainable development to the formulation of sector strategies as the current crises show the need for more investment in agriculture and rural development, together with the prevention of land degradation, the development of locally relevant land tenure systems and the sustainable management of natural resources. Algeria, for example, has developed national plans for agriculture and rural development to combat desertification and deforestation. Gabon has established a national committee for food security and rural development and has enacted legislation for sustainable agriculture and investment in agriculture. Senegal has undertaken institutional, operational and legal measures to combat desertification and Kenya has elaborated a five-year programme through its “Vision 2030” to encourage sustainable management of its extensive drylands. In order to preserve biodiversity and sustainable forestry, some governments have also adopted innovative economic measures.

The report then describes actions at the intergovernmental level, both under the Economic and Social Council (ECOSOC) and the outcome of the sixteenth session of the Commission on Sustainable Development.

At its 2008 substantive session, ECOSOC focused its second annual ministerial review on implementing the internationally agreed goals and commitments in regard to sustainable development. The first Development Forum, held on 30 June 2008, focused on making development cooperation more coherent and more effective.

During its thematic debate of that session, the Council adopted a ministerial declaration underlining the multiple challenges to the achievement of the internationally agreed development goals, including the challenges posed by financial instability and uncertainty, slowing global economic growth and rising food and fuel prices, as well as the impacts of environmental degradation and climate change (see *EPL* 38/1–2: 109).

The sixteenth session of the Commission on Sustainable Development was a review session, focused on identifying barriers, constraints, lessons learned and best practices in implementation in the thematic cluster of agriculture, rural development, land, drought, desertification and Africa. Its outcome was a Chairman’s summary (see *EPL* 38/4: 216–218) consisting of a thematic review and a high-level segment.

Other chapters of the Secretary-General’s report deal with implementation by the United Nations system, Regional activities, Major groups and Partnerships for sustainable development.

The final chapter reiterates the difficulty facing all societies with the current food and energy crises and notes the report’s Conclusions and Recommendations. These call on governments, organisations of the United Nations system and major groups to deepen their commitments to sustainable development by redoubling their efforts to implement Agenda 21, the Programme for the Further Implementation of Agenda 21 and the Johannesburg Plan

of Implementation, in particular by expediting progress in implementation. They also call upon donor governments and international financial institutions to target funding support to developing countries in support of their efforts to overcome barriers and constraints identified during the review year in the thematic cluster of issues of agriculture, rural development, land, drought, desertification and Africa.

During the 63rd session of the United Nations General Assembly, a draft resolution was submitted on 25 November 2008, by the Vice-Chairman of the Second Committee on the implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the outcome of the World Summit on Sustainable Development (WSSD).

In it, having recalled all of its relevant resolutions during the last eight years and other international resolutions on the same topic, the UN General Assembly reiterates the major problems and challenges facing the world community. It takes note “of the proposal to convene a world summit on sustainable development in 2012,

Bearing in mind the need for further consultation on this matter, in the light of the variety of views expressed by Member States, recognizing that the preparatory process, content, modalities and timing for such a possible high-level event on sustainable development would need to be determined taking into account the work of the Commission on Sustainable Development, particularly as established in its multi-year programme of work, with a view to avoiding duplication of work... .”

In the substantive part of the resolution, under point 5, the General Assembly

... “invites Member States to express their views on the possibility of convening a high-level event on sustainable development and requests the Secretary-General, in his report on the implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the outcomes of the World Summit on Sustainable Development, to include the views expressed, and decides to consider this matter further at the sixty-fourth session of the General Assembly.”

Under final point 22, the General Assembly

“Decides to include in the provisional agenda of its sixty-fourth session the sub-item entitled ‘Implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the outcomes of the World Summit on Sustainable Development’, and requests the Secretary-General, at that session, to submit a report on the implementation of the present resolution.”

The further implementation of Agenda 21 and outcomes of the WSSD are on the provisional agenda for the twenty-fifth session of the UNEP Governing Council/Global Ministerial Environment Forum, scheduled from 16–20 February 2009, a report of which will be included in the next issue of this journal. (MJ)

Adopted by the General Assembly as A/RES/63/212 (see p. 6 for a short overview and p. 77 to read the full document).



Ocean Governance

The Need for Integrated National Ocean Policies

by Jean-Pierre Lévy*

It has been ten years since the adoption of “The International Year of the Oceans” by the General Assembly of the United Nations, and the submission by the Independent World Commission on the Ocean (IWCO) of its report *The Ocean: Our Future* (“the Soares Report”). Recently, the Portuguese authorities convened a commemorative meeting on ocean governance, in a time of grave political, economic and social difficulties. In this context there is a natural temptation to consider that the future of the ocean has a relatively low priority. But, it is critical to bear in mind the name of the IWCO report. We should never forget this linkage – the death of the world’s oceans would mean the death of humanity.

The IWCO embarked on its work with an obvious acknowledgment that is too often neglected – the Ocean is an essential determinant of global climate and a crucial component of life on earth and represents a tremendous pool of natural resources (some of them still ignored)



Ocean, Haiti

Courtesy: UNESCO

as well as a transportation medium accounting for more than 80% of world trade. This vast space is an area of political and economic conflicts. Its living resources are over-exploited, and it suffers from the degradation of its environment and the adverse effects of consumerism and urbanisation on coastal zones.

Ten years ago, the Commission reminded us that we do not own our planet or its resources. Further, any institutional system we establish or type of management we adopt for the ocean and for the exploitation of its resources should ultimately benefit all of humanity, whether the present or future generations. Keeping in mind this ultimate objective, the Commission recommended steps for improving the present system of ocean governance,

including proposals aimed at greater transparency and fuller participation of civil society. Through democratisation of decision making and strengthening of accountability, we could achieve a system of ocean governance that responded more clearly to the aspirations of the world, while coping simultaneously with threats to the marine environment.

In the Soares Report, the Commission set three major objectives: (i) to ensure greater security for people and greater equity between them; (ii) to reinforce the role of science and technology in the use and preservation of marine resources; and (iii) to promote efficient global management of the oceans based on a more democratic approach.

Today, as we commemorate the report’s tenth anniversary, we can evaluate the developments of the past decade. There is no doubt that the international community has taken a number of positive steps concerning the future of the ocean, including the implementation of some of the recommendations contained in the Soares Report. Taking just one example, it is fair to recognise that when the General Assembly of the United Nations established in 1999 an “Open-ended Informal Consultative Process on Oceans and the Law of the Sea” in order to facilitate the annual review by the General Assembly of issues relating to the ocean, it in effect adopted one of the recommendations.

However, despite the progress achieved, there has been one goal, namely the “Effective Governance of the Ocean” (which was dealt with in Chapter VI of the Soares Report), which has not been reached. One of the fundamental reasons underlying this state of affairs arises from the fact that ocean governance, considered globally, is predicated upon the adoption at the national level of rational, effective and unselfish “integrated ocean policies”.

The Link between National Policies and Ocean Governance

As to policy making and governance, integration, comprehensiveness and rationality have been chanted like a mantra. The idea conveyed is that all are desirable attributes, and indeed they are. There is also a widespread belief that in view of the numerous uses of the ocean and its resources, a global vision, embodied in an integrated ocean policy, is within easy reach. It is thought that this policy is one that would take into account all the characteristics of the ocean environment and the innumerable conflicts and complementarities of use. It is also widely believed that the objectives and decisions of any government, in asserting and defending a multiplicity of interests in ocean space, should be able to coexist and at least be compatible, if not complementary, to the interests of other governments. ➤

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It is posited that perfectly integrated ocean policies at the national level – that is, policies that are “rational” from all points of view, at all levels of interest, and that would preserve the future of the ocean – will lead to an effective “ocean governance” at the international level. This is a point that should be emphasised because, ultimately, effective ocean governance is predicated upon effective national ocean policies.

Perhaps this is true, but totally rational and unselfish behaviour seldom exists at the governmental level. Why? There is a complexity to the policy process itself and to the impact of internal and external forces that come into play at the different stages of policy formulation and implementation.

The adoption of rational ocean policies at the national level requires a sound understanding of the different phenomena taking place in the marine environment, active participation of all the actors intervening in various sectors, close coordination at the decision-making level, harmonisation at the planning level, and substantial co-operation at the implementation level.

To the extent to which it is feasible to follow such a rational approach, national ocean policies will lead to effective ocean governance. This goal however, though laudable and desirable, cannot be realised in its totality owing to constraints that affect the ocean policy-making process. The value of policies adopted by states must be judged relatively and not in absolute terms.

Limitations on National Ocean Policies

A general trend towards a multidisciplinary and integrated approach has developed progressively over centuries, and it has seen a tremendous acceleration in the past two decades. The close interdependence between economic and social development and the preservation of the environment has been translated into the clear desire to establish integrated ocean policies, ones which should allow the management of ocean space and its resources in such a way as to reduce conflicts, take advantage of complementarities and allow the adoption of measures that are rational and efficient while promoting the economic well-being of the population and the preservation of its environment.

The very administrative structures used to implement governmental actions, however, have developed gradually, over the long history of the State, and ocean responsibilities have been assigned progressively, in an incremental and fragmented manner under pressures created by the growing use of ocean space. Traditionally and inevitably, a “sectoral” approach has predominated. With the multiplication of various responsibilities corresponding to the increase in the uses of the ocean, it has become common to find 10–15 different ministries exercising ocean-related responsibilities. This creates functional as well as institutional difficulties, since each ministry has its own priorities and objectives and has at his disposal administrative agents of its own. In addition, each State has established various degrees of decentralisation and has a multiplicity of public, semi-public or private actors with specific interests to advance or to defend. At the same time, the concept of a

national ocean policy is not well understood by the public and does not command priority. Long-term objectives that a government wishes to follow are not necessarily electoral themes that offer a useful platform for politicians. In addition, a State is subject to limitations relating to its place and role within the international community. These international limitations sometimes impact upon local aspirations, objectives, necessities and interests.

Considering the establishment and implementation of a national ocean policy at the highest level of government, one can argue that the major limitations to a thriving ocean policy come from international law, the concepts of national sovereignty and socio-economic imperatives. These limitations, however, are not necessarily all negative in so far as they pertain to the State as a member of the international community.

International Law

From the point of view of international law, any national policy is liable to constraints. A member State of the international community is subject to international law and is linked by international, regional or bilateral treaties to other States. Thus, the international law of the sea limits arbitrary decision making of a State in a number of areas including: (1) the delimitation of ocean space under its jurisdiction; and (2) its various marine activities, including fisheries, marine scientific research, navigation and mineral resource exploitation in the areas of the international seabed. In addition, States are parties to numerous maritime international conventions which regulate, for example, technical operations of maritime transport, the preservation of the marine environment, and safety of transportation. Regionally, also, States are linked by agreements and a community of interests which sometimes limit their freedom of action. These limitations are necessary to allow an orderly and stable system of international relations.

Very often the public cannot understand the extent to which international rules and norms applied to ocean affairs impose limits on unilateral governmental action. It is certain that any international limitation on a State is a limitation that has been accepted by the State concerned, usually following lengthy negotiations during which it has tried to protect its major interests. However, it is also true that occasionally a State has been compelled to accept limitations either because of international pressure or from a desire to compromise on related or non-related issues. Particularly illustrative examples can be found in the area of fisheries.

Sovereignty

Each sovereign State has a certain concept of its international role whether or not such a role is a natural progression from its historical past or corresponds to its deeply held concepts regarding participation in the establishment of some kind of world order. The international role of a State in ocean affairs includes economic as well as political and strategic aspects. Naval power and defence objectives are usually the most important in the formulation and conduct of a national ocean policy. There is a

certain supremacy attached to this role, which limits by definition any rational cost-benefit analysis. Numerous examples could be given where the objectives related to naval power or maintenance of links of communication appear to be in clear conflict with certain other objectives but are still pursued because of a belief that sovereignty triumphs over all else. In any event missions assigned to the navy have priority in most cases. The issue in national ocean policy is not so much to reduce such a priority as it is to take it into account, or assimilate it, however anomalous and incongruous it may appear in a narrower technical context.

Socio-economic Imperatives

In the elaboration and implementation of a national ocean policy, the State has to take into account a certain number of socio-economic imperatives that vary over time. Each State will have to determine a national fishery policy, a national maritime transport policy, a national marine environment policy, and so on. These policies are more closely subject to the pressure of public opinion and their importance varies over time. What may be essential for a government today may become secondary tomorrow; this complicates any long-term planning. Yet, these issues all have to be taken into account when a government formulates its national ocean policy, and thus they also, in a lesser way, impose limitations on the complete freedom of decision of a State.

From National Ocean Policy to International Ocean Governance

In order to promote worldwide responsible ocean governance, it is essential to pursue and develop integrated national ocean policies. But this is not sufficient, given the global nature of the challenge. This is where the regional and international organisations, as well as the legal regimes applicable to the ocean, have an important role to play.

The last few decades have seen the adoption of more than 100 international conventions and agreements of global or regional scope dealing with ocean space and the use and preservation of marine resources. With few exceptions, the challenge is no longer one of adopting further international agreements but rather the ratification, implementation and enforcement of existing international law.

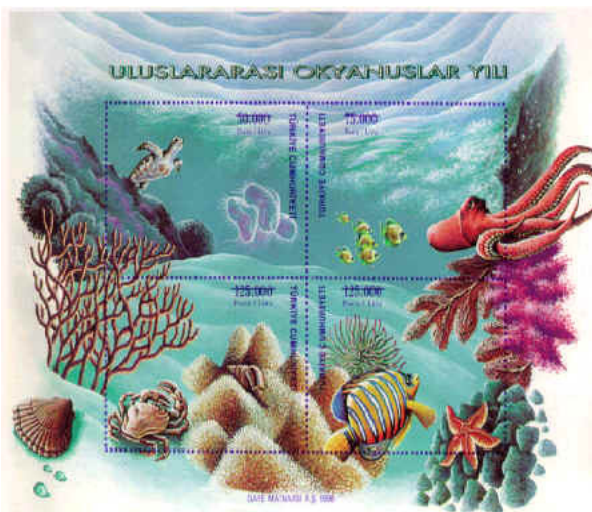
A number of existing legal regimes relate directly to global ocean governance. First, the United Nations Convention on the Law of the Sea (UNCLOS), which was adopted in 1982 and entered into force in 1994, provides the overarching legal framework for the behaviour of States in ocean matters. In some areas this convention establishes very detailed and precise rules; in others – such as the coastal and marine environment – it limits itself to general principles, which have to be translated into further legislation.

As to the environment, one regime relates to the sustainable management of living marine resources. The practical implementation is primarily the responsibility of the UN Food and Agricultural Organization. A second major regime – that of shipping and marine pollution control – falls to the International Maritime Organization

(IMO). The United Nations Environment Programme is responsible for overseeing specific regulations concerning the marine environment, while the Intergovernmental Oceanographic Commission (IOC) of UNESCO is responsible for the promotion of marine scientific research.

The Agreement of 28 July 1994 redefined the power and scope of the International Seabed Authority (which paved the way for the universal acceptance of UNCLOS). As a result, there now exists a special regime for controlling the use of the deep seabed (beyond the limits of national jurisdiction) as “common heritage of mankind”.

Finally, in addition to these legally binding regimes, States have enacted numerous agreements, resolutions and action plans that, although non-binding, constitute a basis for action by governments. Most notable is Agenda 21, the programme of action adopted at the UN Conference on Environment and Development in 1992 in Rio de Janeiro (in particular Chapter 17, dealing with oceans) and the programme of action on land-based sources of pollution



International Year of the Ocean Stamp, Turkey

Courtesy: IOC

adopted in Washington in 1995. These decisions have been followed over time by a number of agreements, whether binding or non-binding, as well by meetings, conferences and statements aimed at improving ocean governance. The Lisbon meeting of 12 December 2008 takes its place within this trend. It looks forward to the May 2009 World Ocean Conference in Manado, Indonesia, and to the 2012 EXPO in Yaeu, Republic of Korea, leading ultimately to 2014, when oceans will be considered by the Commission on Sustainable Development.

Whether binding or non-binding, these recent instruments adopted by the international community are not static. Most of the recent conventions are monitored by meetings of States Parties to them; they review at regular intervals their implementation and provide impetus for further development, as illustrated most notably by the recent agreements dealing with biological diversity and climate change. As an unanticipated consequence, governments have found it increasingly difficult to have a coherent picture of the overall legal framework that would

be necessary for effective governance of ocean space nationally and internationally.

In addition, there exist several different institutional structures, each with its own mandate, secretariat and constituency, operating in isolation from the others. A mechanism for coordination among the various institutions would lead to more coherence. However, such mechanisms have not functioned as well as could be desired because of: (1) the natural tendency of secretariats to protect their separate turfs; (2) a lack of coherence within national delegations reflecting the separate “sectoral” approaches domestically; and (3) inadequate budgetary support for inter-agency coordination. Only at the level of the General Assembly of the United Nations is there even the possibility to consider in an integrated way all aspects of ocean governance. Since the adoption of UNCLOS in 1982, the General Assembly has progressively assumed the role of a global monitoring body for the implementation of the Law of the Sea and for ocean affairs. Since 1982, the General Assembly has regularly requested the Secretary General to submit to it a comprehensive report

in this area. However, this procedure suffers also from limitations, despite the improvements brought about by the previous consideration of issues within the “Informal Consultative Process”.

As to ocean governance regionally, the major weaknesses at the present very often arise from the limitations of the mandate of certain regional organisations, their lack of proper funding and the absence of enforcement power.

However, a fundamental consideration must always be borne in mind when criticising international and regional organisations and pointing out their weakness or inefficiency: they are only reflections of the political will of States and are not masters of their destiny. It falls to the community of States to make the necessary commitment to enhance the efficiency of regional and international organisations.

Effective ocean governance will ultimately depend on political will. The real challenge consists of promoting and mobilising this political will, through constant involvement of the civil society and enlistment of all stakeholders in all parts of the world.



Ambassador J. Alan Beesley 1927–2009

Alan Beesley was a consummate diplomat, gifted negotiator and esteemed colleague. He was an innovator in international law, a trailblazer in environmental law and, clearly, one of those whose writings and speeches would qualify as “the teachings of the most highly qualified publicists of the various nations” *i.e.*, a recognised source of international law in terms of Article 38 of the World Court Statute.

He served Canada as Ambassador to several countries and international organisations and as Head of Delegation to numerous international law-making conferences. He was a Member of the International Law Commission in Geneva 1986–1991 and contributed greatly to development of the emerging Law of the Arctic.

Alan was a Canadian Delegate to the Stockholm Conference on the Environment in 1972 that first put environment on the global agenda and led to the establishment of the United Nations Environment Programme (UNEP) and was deeply committed to protecting the environment throughout his career.

Alan received numerous certificates, awards and medals including the Prime Minister’s Outstanding Public Service Award in 1983, the Admiral’s Medal for Contributions to Canadian Maritime Affairs 1993 and the UN Association of Canada Medal of Honour in 1995, but the one he cherished most was the Order of Canada in 1984 for his pioneering work on the Law of the Sea and the Environment. In addition to heading the Canadian Delegation to the UN Law of the Sea Conference throughout the tumultuous negotiating process 1967–1983, he served as Ambassador for Marine Conservation and as Special Environmental Adviser to Canada’s Foreign Minister 1989–1991.

He was a long-time member of ICEL and was last re-elected for a four-year term as a Regional Governer.

Ambassador Lorne S. Clark



GEF / 34th Council

Considering Future Options

by Soledad Aguilar*

The Global Environment Facility (GEF) Council's 34th meeting took place in Washington DC, USA, on 11–13 November 2008. The Council re-elected Monique Barbut as its CEO/Chairperson for a three-year term providing evidence of member countries' support for the reforms geared at project cycle streamlining and outcome-oriented lending that she implemented during her first term in office. The main decisions taken by the Council during this meeting included: projects amounting to US\$ 201.17 million; a US\$ 50 million strategic programme for technology transfer for climate change mitigation and adaptation; a review of the resource allocation framework used to fund the climate and biodiversity clusters; and the formal launch of negotiations for the fifth GEF replenishment.

The Councils of the Least Developed Countries Fund (LDCF) and Special Climate Change Fund (SCCF) met on the fringes of this meeting to be informed on fund status, learning that pledges to the SCCF amount to US\$ 106.57 million, and to the LDCF, US\$ 172.44 million. They also approved an approach to monitor performance and outputs, outcomes and impacts of both funds. The meetings were preceded by a consultation with non-governmental organisations.

Background

The GEF's 178 member countries manage a trust fund under the aegis of the World Bank that provides grant and concessional funding to meet the incremental costs of achieving agreed environmental goals, in the areas of biological diversity, climate change, international waters, land degradation, ozone layer depletion and persistent organic pollutants. The GEF also acts as the financial mechanism for the four international conventions functioning in these areas: the Convention on Biological Diversity (CBD), the UN Framework Convention on Climate Change (UNFCCC) and its Kyoto Protocol, the UN Convention to Combat Desertification (UNCCD), and the Stockholm Convention on Persistent Organic Pollutants (POPs). It helps fund initiatives that assist developing countries in meeting the objectives of these environmental conventions, and also collaborates closely with other related treaties and agreements. The GEF Council functions as the main governing body of the GEF, and has 32 members who meet twice a year, each representing a group of countries ('constituency') including both donors and recipients of GEF funding.

The following presents a brief summary of discussions and decisions taken during the thirty-fourth GEF Coun-

cil meeting regarding technology transfer, the resource allocation framework (RAF) review and fifth replenishment launch of negotiations, as well as an overview of the new programmatic activities adopted under its programme of work.

Strategic Programme on Technology Transfer

The GEF Council considered a strategic programme to scale up the level of investment for technology transfer, to help developing countries address their needs for environmentally sound technologies for climate change mitigation and adaptation, in response to a request by the thirteenth UNFCCC COP (2007). The Council agreed to a target funding level of US\$ 50 million for the proposed programme, with US\$ 35 million to be drawn from the GEF Trust Fund and US\$ 15 million from the Special Climate Change Fund (SCCF). A decision by the SCCF Council confirmed the use of SCCF funds to this end.

The strategic programme adopted includes three funding windows. The main window sets aside US \$40 million to support pilot projects on priority technologies, while the other two are designed to support countries' technology needs assessments (US\$ 9 million) and the dissemination of successful low-carbon technologies by the GEF Secretariat (US\$ 1 million).¹

The main thrust of GEF funding will go to pilot projects that support the deployment, diffusion and transfer of environmentally sound technologies that reduce greenhouse gas emissions, provide multiple local and global benefits and may attract private-sector investment in technology transfer. Pilot projects are expected to come from those previously evaluated in the technology needs assessments or national communications, but not yet funded by GEF. To enable their access to the funding under this programme, each of the GEF's participant countries will be eligible for only one US\$ 1–3 million project. Funding for this window will be drawn from both the SCCF and the GEF Trust Fund.

A second funding window will focus on updating existing or developing technology needs assessments. This window is expected to provide around US\$9 million drawn from the SCCF, including fees to the GEF implementing agencies (UNEP and UNDP).

The last (smaller) window focuses on dissemination of successful examples of environmentally sound mitigation and adaptation technologies that have been identified from among recent GEF projects. The GEF's prime objective with this funding window is to gain a better understanding of technology transfer and GEF's role in its promotion. It also recognises the value of disseminating technologies

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that have been successfully demonstrated through GEF support to a wider range of countries and audiences. The goal for this window is to apply this process to 5–10 environmentally sound technologies that can potentially be replicated in developing countries, focusing on those which have been successful in leading to significant greenhouse gas emissions reductions while contributing to development objectives and adaptation. The funding designated for these dissemination activities will be US\$ one million from the SCCF.

Considering that climate change funding is also included under the resource allocation framework, the GEF Council decided to draw GEF Trust Fund resources for this technology transfer programme from: the climate change global and regional exclusion window of the GEF Trust Fund to the amount of US\$ 5 million; and the national and group allocations under the RAF, as well as unused funds to be reallocated from the RAF. The total amount identified for this programme is US\$ 30 million.²

The strategic programme adopted by the GEF Council was forwarded to the Poznan meeting of the UNFCCC COP (reported at page 24), which welcomed the GEF's strategic programme on technology transfer and further requested the GEF to consider its long-term implementation.³

Resource Allocation Framework (RAF) Mid-term Evaluation

The GEF Council performed a mid-term review of the Resource Allocation Framework, a set of criteria adopted together with the GEF's fourth replenishment to allocate funding for biodiversity and climate change, based on a country's performance and potential to generate global environmental benefits. The review was based on an independent review and the responses provided by the GEF Secretariat.⁴

Discussions addressed whether the RAF criteria – pushed by the United States and resisted by many EU donors – had been effective in improving GEF projects' effectiveness, in light of the performance evaluation's conclusion that the RAF “does not provide effective incentives to improve performance” and that trends are not favourable regarding improvements in GEF impact due to the complexity of the system. The review also compared GEF with other institutions with performance-based allocation systems and noted GEF “is currently the donor working in the largest number of countries with the smallest amount of funds, and the only donor with two complex allocation systems, one for biodiversity and one for climate change”.⁵

Several members reinstated their opinion that other criteria such as equity in resource distribution and the recognition of the vulnerabilities of least developed

countries should be taken into account. A few members responded suggesting that GEF might address the equity issue most effectively by scaling up support for adaptation through other specific funds such as the LDCF.⁶

Council members discussed but could not agree on the merits of using a RAF. While some considered the mid-term evaluation provided little support for maintaining the RAF, others noted it was too early to jump to conclusions considering the average 22-month project cycle from GEF project design to approval, and the RAF mid-term evaluation only addressed the first 24 months of the fourth GEF replenishment – at which point many projects were only starting to be implemented.

Discussions on the technical aspects of criteria used to measure global benefits to biodiversity and climate resulted in a request to the GEF Secretariat, in collaboration with the GEF's agencies, its Scientific and Technical Advisory Panel and other stakeholders, to present steps to improve RAF design and indices for the climate change and biodiversity focal areas for consideration at the Fifth GEF Replenishment (GEF-5). Although many see the expansion of the RAF to other focal areas as very unlikely, the Council requested scenarios for possible expansion of the RAF, to all focal areas for GEF-5 for consideration by the Council at its next meeting to be held in June 2009.

Regarding the low rate of execution of RAF funds, some assigned it to the time it takes for agencies and governments to incorporate changes in GEF procedures, especially considering the larger role played by governments in defining country priorities as a result of the RAF. Many Council members supported the need for more flexibility in the design of the RAF, particularly regarding



small-scale allocations and group allocations.⁷ Council members therefore agreed to impose a moratorium on new changes or additions to the RAF and project cycle rules and procedures, with the exception of changes made to simplify procedures or reallocate unused funds during the last year of GEF-4. The Council also decided to consider

the reallocation of unused funds in the last year of GEF-4 with “full public disclosure, transparency, participation and clear responsibilities”, and tasked the Secretariat with presenting a proposal to be circulated for comments by Council members with the aim of adopting a decision by mail by March 2009.⁸

Fifth GEF Replenishment (GEF-5)

In the fourth replenishment, the GEF Trust Fund received contributions from 32 governments adding up to US\$ 3.13 billion to finance environmental projects during the period July 2006–June 2010, with approximately a third allocated to climate change. Building on this recent history, the GEF-5 negotiations were launched at the Council meeting in November and a planning meeting was held in Washington on November 14. The negotiation procedures adopted a novel approach, by enabling participation of GEF Council members from recipient countries and GEF agencies, rather than limiting the discussions only to donor countries. This approach will continue, as both recipients and agencies will be asked to provide inputs and comments on the papers that will be discussed during the replenishment. Representatives from the CBD, UNFCCC, UNCCD and POPs Convention will be invited to attend the replenishment meetings. The next GEF-5 meeting is scheduled to take place in March 2009, in Paris, with the objective of finalising the replenishment by early 2010.⁹



GEF Programme of Work

The GEF Council approved 37 projects amounting to US\$ 201.17 million, and endorsed five new programmatic approaches, which will incorporate several projects with similar objectives to make better use of GEF funds and allow countries with group allocations under the RAF a more streamlined access to GEF resources.¹⁰ Approved programmes include:¹¹

- A Strategic Program for West Africa (biodiversity component), led by the World Bank, with projects approved for the Consolidation of Cape Verde’s Protected Areas System (US\$ 3.29 million), and the Expansion and Strengthening of Mali’s Protected Areas System (US\$ 1.77 million);
- A Strategic Program for West Africa (Energy component), led by UNIDO, aimed at scaling up investments in renewable energy and energy efficiency in 18 countries in the region;
- A Framework for Promoting Low Greenhouse Gas Emission Buildings, led by UNDP, that will include 30 national projects;
- A programme for Reducing Industry’s Carbon Footprint in Southeast Asia through Compliance with a Management System for Energy, led by UNIDO, with a US\$ 2.18 million project approved for Indonesia, and a US\$ 3.17 million project approved for the Philippines;

- A Strategic Program for Sustainable Forest Management in the Congo Basin, led by the World Bank. Projects approved include a US\$ 13 million project to enhance institutional capacities on issues related to reducing emissions from deforestation and sustainable forest management in Cameroon, Congo DR, Equatorial Guinea, Gabon, Congo, and the Central African Republic; as well as three projects to: catalyse sustainable forest management in the Lake Tele-Lake Tumba transboundary wetland landscape (US\$ 2.17 million); enforce the protected areas network in Congo DR (US\$ 6 million); and sustainably manage forests for the conservation of representative ecosystems and globally significant biodiversity in Equatorial Guinea (US\$ 1.77 million).

Future Work

It is expected that 2009 will be particularly important to GEF as the negotiations for its fifth replenishment run in parallel to negotiations for a financial framework and the “post-2012 commitment” negotiations under the UNFCCC. Achievements during

the fifth replenishment period will be funded by a combination of sources, integrating the US\$ six billion already announced for the World Bank Climate Investment Funds, which will be executed in parallel with GEF funding for climate change. The targets and objectives for GEF-5 must therefore be designed for coordinated effectiveness to prevent duplication of efforts.

Based on consideration of the Fourth Overall GEF Performance Study and the review of the RAF, GEF-5 negotiations will be called to find modalities for allocations in the next GEF period. Controversy is likely to continue on the merits of the RAF and the possibility of its extension to other focal areas – something seen by participants as highly unlikely at this stage. Pending a positive outcome of these negotiations, the Fifth replenishment should be announced to the quadrennial meeting of GEF Parties and stakeholders in Punta del Este, Uruguay in 2010.

Notes

- 1 Document GEF/C.34/5.Rev.1, 13 November 2008, http://gefweb.org/interior_right.aspx?id=22710.
- 2 Joint Summary of the Chairs of the thirty-fourth GEF Council Meeting, 17 November 2008, [http://gefweb.org/uploadedFiles/Documents/Council_Documents_\(PDF_DOC\)/GEF_C34/Joint%20Summary%20of%20the%20Chairs_C.34.pdf](http://gefweb.org/uploadedFiles/Documents/Council_Documents_(PDF_DOC)/GEF_C34/Joint%20Summary%20of%20the%20Chairs_C.34.pdf).
- 3 UNFCCC COP-14 Decision on the transfer of technologies, http://unfccc.int/files/meetings/cop_14/application/pdf/cp_tt.pdf.
- 4 Document GEF/ME/C.34/3, link in note 1.
- 5 Document GEF/ME/C.34/2, link in note 1.
- 6 Highlights of the Council’s Discussions, 3 December 2008, <http://gefweb.org/uploadedfiles/Highlights%2012.08.08.pdf>.
- 7 *Ibid.*
- 8 Joint Summary of the Chairs, note 2.
- 9 GEF Press Briefing, Poznan, Poland, 4 December 2008, http://www.thegef.org/interior_right.aspx?id=23536.
- 10 GEF Press release, 9 January 2008, http://gefweb.org/interior_right.aspx?id=23766.
- 11 Document GEF/C.34/6, link in note 1.



ECOSOC

Global Finance Architecture – Call for a Reform –

by Soledad Aguilar*

The year 2008 may be remembered as one of multiple crises: food, fuel and finally, finance. 2009 therefore starts with an urgent call for the global community and a new United States administration to set the global architecture and institutions for finance straight, after the structural flaws evidenced by a post-war design proved ineffective in tackling 21st century problems. For the first time, ministers dealing with financial flows and macro-economic policy are also talking about climate change. How will these previously unrelated spheres of knowledge be combined into sound international policy? Who will undertake such a gigantic task? Over 170 countries, including nearly 40 heads of state met in Doha to discuss these matters at the Follow-up International Conference on Financing for Development to Review the Implementation of the Monterrey Consensus (Doha, Qatar, 29 November–2 December 2008) and attempted to provide advice on how to promote financial flows that support sound policies for economic development, while addressing new challenges posed by the energy, food and environmental needs of the present era.

The following brief will address two key issues with bearing on international environmental policy addressed during the Finance for Development (FfD) debate, namely, the reform of the international financial architecture including the Bretton Woods institutions and regional development banks, and the incorporation of climate change and environmental challenges into the financing for development agenda. It will then review the related processes taking place during the first semester of 2009.

Background

Further to negotiations on the follow-up of global commitments undertaken in the 2002 Monterrey Consensus led by the UN Economic and Social Council (ECOSOC), country representatives met at Doha, Qatar in the first week of December 2008 and adopted the Doha Declaration on Financing for Development, a document containing 90 paragraphs divided into nine subsections on: domestic and international financial resources for development; international trade as an engine for development; international financial and technical cooperation for development; external debt; and enhancing the coherence and consistency of the international monetary, financial and trading systems in support of development. The final sections address new challenges and emerging issues and

measures for staying engaged, ending with a call for a follow-up conference in 2013.¹

The Doha Declaration on FfD further restates commitments by developed nations to achieve the ODA target of 0.7% of gross national income (GNI), seeks to explain what the international community understands by sound international policy on development assistance, debt management and aid effectiveness, and calls for an international summit under UN auspices to deal with the world's financial crisis.

Reform of International Financial Institutions

International financial institutions (IFIs) like the World Bank and regional development banks provide a large share of the international funding available for the environment and the implementation of multilateral environmental agreements. The international financial architecture reform is therefore a subject relevant to the future of international environmental policy implementation.

Debate on this matter during the Doha Conference showed a divide between developed and developing nations, specifically on the issue of participation in the review of the international financial and monetary architecture as well as on the reform of global economic governance structures. Although countries agreed on the need to convene a specific meeting or process to debate these issues, discussions centred on which institution/s should convene such a process: the all-encompassing UN where one country equals one vote, the more elitist G8² and G20³ groups of nations, or existing venues with "weighted" voting systems like the World Bank and International Monetary Fund (IMF).

The initial draft Outcome document suggested the IMF should lead the reform process, a venue that benefited smaller EU nations that have voting power within the Bretton Woods institutions but are not parties to the G8 or G20.⁴ The proposal was resisted by developing countries that oppose discussing reform issues within the Bretton Woods institutions, and favoured an inclusive process under UN auspices with the participation of all nations.⁵ Major economies, on the contrary, tried to veer discussions on the reform of the global financial system towards the G20. Developing countries stood their ground and some reportedly commented they "would be happy to have just a blank page with paragraph 79 as the outcome of the conference".⁶

As a result of discussions, the Doha Declaration's paragraph 79 calls for a global conference under UN auspices to address the world's financial and economic crisis and

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its impact on development, although it does not refer specifically to IFI reform. The Declaration states that “[the] United Nations will hold a conference at the highest level on the world financial and economic crisis and its impact on development. The conference will be organized by the President of the General Assembly and the modalities will be defined by March 2009 at the latest”.⁷

The Doha Declaration on FfD also notes the need for a wide debate and cooperation among institutions to review the international financial and monetary architecture and global economic governance structures in order to ensure a more effective and coordinated management of global issues. “Such a debate should associate the United Nations, the World Bank, IMF and the World Trade Organization, should involve regional financial institutions and other relevant bodies and should take place in the context of the current initiatives aimed at improving the inclusiveness, legitimacy and effectiveness of the global economic governance structures. Greater cooperation among the United Nations, the Bretton Woods institutions and the World Trade Organization is needed, based on a clear understanding and respect for their respective mandates and governance structures”.⁸

Placing the discussions on IFI reform under UN auspices was considered a victory for developing countries, although discussions on modalities, if filibustered, run the risk of becoming obsolete as other “more executive” fora like the G20 take the lead.

Climate Change and Environmental Challenges in the Financing for Development Agenda

The Doha Conference on FfD incorporated challenges facing the international community that have surfaced or taken a more prominent role in the global agenda since Monterrey in 2002. A new chapter was thus added at Doha addressing challenges and emerging issues such as increased food insecurity, volatile energy and commodity prices, and climate change.

During the FfD debate in Doha, opportunities created by the current crises to “green” the world’s economy were highlighted, noting the long-term benefits of investments in environmentally sound technologies, and the use of carbon markets to generate financial resources needed to combat climate change.⁹

Regarding environmental aspects of development, the Doha Declaration on FfD reaffirms governments’ resolve to take concerted global action to address new challenges while consistently furthering economic and human development for all. It also notes the major financial implications of responses to the global environmental challenges and the need for additional resource mobilisation, including from the private sector, to address the challenges of climate change, and support adaptation and mitigation strategies in developing countries and particularly in those most vulnerable to climate change impacts like small island developing States and some countries in Africa. It also

reaffirms that access to basic energy services and to clean and sustainable energy is important to eradicate extreme poverty and to achieve internationally agreed development goals, including the Millennium Development Goals.¹⁰

The Doha Declaration on FfD does not delve into the subject of current UNFCCC negotiations on a post-2012 framework for climate change, but simply reiterates the importance of reaching an agreed outcome at the Climate Conference to be held in Copenhagen from 30 November –11 December 2009, and urges all parties to engage constructively in negotiations consistent with the Bali Action Plan, and in a manner that will ensure an agreed outcome commensurate with the scope and urgency of the climate change challenge.¹¹

The resulting Declaration thus serves to maintain the issue of climate change high on the global agenda, while highlighting the impact of finance, and the financial crisis in particular, on policy responses available to tackle global development and environmental problems. It does not provide, however, any concrete answers in this respect but rather ensures that global environmental problems such as climate change and their implications for sustainable development, are considered within the FfD process.

Prospects for 2009

International consensus on the need to provide a global response to the financial crisis and reform of IFIs spurred discussions at high-level political venues including the UN and the G20. The UN replied promptly to its mandate convening a group of well respected advisors to the UN General Assembly President, the Commission of Experts on Reforms of the International Monetary and Financial System, to a meeting held in New York on 4–6 January 2009. The meeting was chaired by Joseph Stiglitz, Nobel laureate and Former Senior Vice President of the World Bank, and included the participation of 18 experts including Yousef Boutros-Ghali (Egypt) who is also leading IMF discussions on this subject.

At the meeting Miguel d’Escoto Brockmann, President of the UN General Assembly, reinforced the UN’s role as a forum to charter “any legitimate effort to recast the institutions and the rules of the global financial system”.¹² He also identified the dangers of underachievement in this area, noting the worst-case scenario as a result of the failure of global financial institutions could lead to shifting the burden of adjustment onto the poor as was done in the 1980s; imposing extreme economic theories inflexibly on countries in need of assistance as was done in the 1990s; forcing countries to adopt pro-cyclical policies in the midst of crisis, as was done in East Asia in the late 1990s; and imposing a double standard for fiscal and financial discipline, where most powerful nations are not bound by the very same rules they created.

The Commission addressed sustainable development challenges in its final statement, where it stipulates that reforms should establish regulations that: enable countries to pursue simultaneously long-term objectives, such as



sustainable and equitable growth, the responsible use of natural resources, and reduction of greenhouse gas emissions; and more immediate needs, including addressing the challenges posed by the food and financial crises.¹³

The Commission of Experts, which will meet again in Geneva on March 8–10 2009, recommended, *inter alia*, that developed countries resist the temptation to cut back on development assistance suggesting it is “*time to expand it, probably by an order of magnitude of at least 20%, including for infrastructure projects addressing long-term development and environmental problems*”.¹⁴

At the same time, outside the UN framework, the G20 is holding several technical meetings on the impacts of the financial crisis and global finance architecture reform during the first trimester of 2009, leading to a Summit to be held on April 2, 2009 in the UK.¹⁵ A group, chaired by Indonesia and France, is working on the reform of the World Bank and the multilateral development banks.

Conclusion

The G20, the G8, the UN all scrambled to address a crisis that has yet to show its full impact on the global economy and on sustainable development prospects for the coming years. The year 2009 will be one of exploration of different alternatives, with developing countries already seeking to play a major role and have a louder voice in the design – and future governance – of a new world financial order.

While the international community is generally supportive of the result agreed in Doha and express hopes for the 2009 meeting, calls have been made to ensure that discussions on modalities should not delay the convening of a conference in 2009 and warned that time is running out to stop economic and human devastation in the poorest countries.¹⁶ Some also view with concern the holding of parallel discussions within the G20, which exclude most developing countries from the debate. A decision within the expanded G8, including major economies would account for 80% of global emissions... a decision within the

G20 would account for 85% of global GDP. A decision within the UN and UNFCCC, however, applies to all countries in the world. The trade-off between the urgency of taking decisions regarding global finance and climate change during 2009, and the convenience of seeking global consensus in democratic forums like the UN, may be more patent than ever this year.

Notes

- 1 Doha Declaration on Financing for Development: outcome document of the Follow-up International Conference on Financing for Development to Review the Implementation of the Monterrey Consensus, Document A/CONF.212/L.1/Rev.1 Annex, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/CONF.212/L.1/Rev.1>.
- 2 The Group of Eight – Canada, France, Germany, Italy, Japan, Russia, UK and US.
- 3 The Group of 20 – all G8 nations, other major economies (China, India, Brazil, South Africa, Mexico, Australia, Korea and Indonesia) as well as Argentina, Saudi Arabia, Turkey and the European Union.
- 4 UNGA, 2008, Draft Outcome Document of the Follow-up International Conference on Financing for Development, Document: A/CONF.212/CRP.1; paragraph 58, http://www.un.org/esa/ffd/doha/draftoutcome/DraftOutcomeDoc_English.pdf.
- 5 Group of 77 and China, draft proposals on the Doha Outcome Document on Financing for Development, 24 October 2008, http://www.un.org/esa/ffd/doha/draftoutcome/draftsuggestions/24OCT08_G77_draft.pdf.
- 6 EURODAD, “Analysis of the Doha UN Financing for Development Outcome Document”, press release, 11 December 2008, <http://www.eurodad.org/whatsnew/articles.aspx?id=3218>.
- 7 Doha Declaration on Financing for Development, paragraph 79, link in note 1.
- 8 *Ibid.*, paragraph 78, link in note 1.
- 9 The Road to Doha Newsletter, December 2008, http://www.un.org/esa/ffd/newsletter/2008_TheRoadtoDoha_Issue19.pdf.
- 10 Doha Declaration on Financing for Development, paragraph 84, link in note 1.
- 11 *Ibid.*, paragraph 82, link in note 1.
- 12 Miguel D’Escoto Brockmann statement, 5 January 2009, <http://www.un.org/ga/president/63/statements/commissionofexperts10509.shtml>.
- 13 The First Meeting of the Commission of Experts of the President of the United Nations General Assembly on Reforms of the International Monetary and Financial System: Recommendations for Immediate Action, 4–6 January 2009, New York, <http://www.un.org/ga/president/63/commission/firstmeeting.pdf>.
- 14 *Ibid.*
- 15 “G20 preparing reports on IMF, other reforms: source”, Reuters, 9 January 2009, <http://www.reuters.com/article/GCA-CreditCrisis/idUSTRE5085N920090109>.
- 16 Press release ActionAid UK, Oxfam International, “‘Poverty tsunami’ forecast in wake of finance meeting”, 2 December, 2008, <http://uk.oneworld.net/article/view/161736/1/902>.



UN / ISA

New Leadership and New Challenges

by Arianna Broggiato*

On 1 January 2009, a new Secretary-General took the reins of the International Seabed Authority (ISA): Nii Allotey Odunton, elected during the fourteenth Annual Session of the Authority. A mining engineer from Ghana, with long experience in the negotiations leading to the establishment of the institutions under the United Nations Convention on the Law of the Sea (UNCLOS),

he has worked for the Authority, in various positions since its establishment in 1996.¹

On 20 January 2009, the newly elected President of the United States of America, Barack Obama, will assume the Presidency, and has already declared his intention to push on with the ratification of three important international treaties,² among them the controversial Law of the Sea Convention. The United States is the only major maritime power that has not ratified the Convention, and their ratification is thought by many to be a core issue for the effective functioning of the ISA. The double changes in the leadership, both of the ISA and of the US, might

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coincide with a new phase for the Authority's activities, namely the exploitation phase, that hopefully will see the participation of the United States as Member State.

“Common Heritage of Mankind” Regime

The 1994 Agreement on Implementation of Part XI of the UNCLOS was negotiated in order to overcome some countries' (including the US's) opposition to the manner in which the Convention assigned responsibility over the Area³ to the ISA.⁴ Thanks to the changes brought about by this Agreement, the Convention was widely ratified and could finally enter into force in 1996. Notwithstanding these changes, the US did not ratify the Convention and in 1998 left its seat as provisional member of the ISA, to continue sitting, with sizeable delegations, as an observer.

The critical point of the ISA regime is the concept of the common heritage of mankind, applied to the Area and its resources⁵ – that is to “all solid, liquid or gaseous mineral resources” of the Area. Although not properly defined in the Convention, the core features of this legal regime are generally described in articles 137–141. Specifically, it provides that no State can claim or exercise sovereignty over any part of the Area or its resources, as they are vested in mankind as a whole, on whose behalf the International Seabed Authority administers the area for the benefit of mankind, for exclusively peaceful purposes and an equitable sharing of financial and other economic benefits. The Authority is empowered to organise and control activities in the Area, particularly with a view to administering the resources and their exploitation, and establishing a mechanism by which benefits of exploitation will be shared. Member States cannot freely exploit the seabed beyond their national jurisdiction. This restriction protects the interests of developing countries in a situation in which commercially successful exploitation would be possible only for States possessing the expensive technology.

The First 12 Years of Activities of the Authority

The leadership transition at the Secretariat provides an opportunity to evaluate the Authority's first 12 years of existence. Outgoing Secretary-General, Satya Nandan, was one of the founding fathers of the Law of the Sea as well as of the Authority. Implementing an international law calling for a new organisation is no simple task, which he shared with diplomats and national officers. Under Nandan's direction, the Authority prepared the regulatory and contracting framework within which mining activities in the Area will be carried out once feasible and actual.⁶ It was also able to prevent a rigid north-south confrontation

in the decision making of its Council, and to maintain a good balance between private and public interests.

One of the most important milestones in the life of the Authority was the formal recognition given to the claims of the pioneer investors, which brought them within the single regime created by the Convention and the 1994 Agreement. It demonstrated that the institutional structure of the

new Authority could function effectively, and showed also the confidence that the contractors had in the system. That confidence is demonstrated by the fact that there are presently eight contractors⁷ engaged in exploration for polymetallic nodules in the Area.

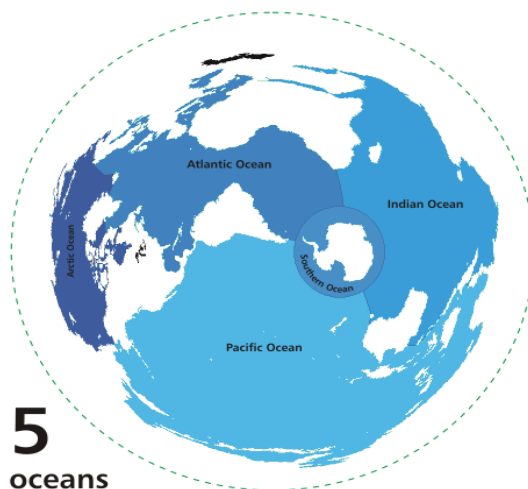
Moreover, the Authority made substantial progresses in implementing its tasks, and this is demonstrated by: the regulatory framework for prospecting and exploration for polymetallic nodules completed in 2000,⁸ the progress made in elaborating similar regimes for polymetallic sulphides⁹ and cobalt-rich ferromanganese crusts,¹⁰ the

development of preliminary environmental guidelines for mineral exploration in the international seabed Area, and the establishment of the voluntary trust fund,¹¹ and of the Endowment Fund,¹² that strengthened the implementation of the very essence of the concept of the common heritage of mankind.

Critical Issues

From an administrative perspective, one of the difficulties that the Authority continues to encounter is the lack of participation of its Member States in its Annual Sessions: for example at the fourteenth Annual Session, that took place in June 2008, only 78 of the Authority's 157 members¹³ participated. While it may be understandable that landlocked countries have not focused on these meetings, their disinterest should be overcome since they are key beneficiaries of the core of the concept of common heritage of mankind as applied to the Area's exploitation. Apart from this, attendance obligations must be recognised by member states, if they want the ISA to continue as a vital institution. The General Assembly has specifically called on all States Parties to the Convention to attend the ISA sessions.

The boundaries of the Area are not, as yet, entirely clear, since UNCLOS allows States to extend their rights in the continental shelf beyond 200 nautical miles if they show that the continental margin extends beyond that distance.¹⁴ Many such claims have already been lodged. Eighty countries have realistic hopes of succeeding in their claims, and are particularly interested in mineral exploitation, rather than new fishing rights. The Authority is the body competent in the administration of mineral resources, (although it has no role in determining the boundaries of



Courtesy: Wikipedia

the outer continental shelf). In a similar way, Canada, Denmark, Norway, Russia and the United States are lodging claims over Arctic seabed areas beyond 200 nautical miles, aiming at exploitation rights over hydrocarbon resources – resources which would otherwise fall under ISA jurisdiction.

At present, however, the pace of exploration work in the Area remains very slow: hence the ISA has focused on preparatory work and the evaluation of data already collected during the pioneer phase. For example, one contractor spent the entire five-year period simply evaluating the feasibility of continued investment in deep seabed mining. Another contractor concentrated solely on the analysis of environmental data, and carried out no geological exploration work. There was very little evidence of progress in the development of mining and processing technology, although some contractors carried out preliminary tests of collecting systems and indicated that they intended to work on technology development in the future. Moreover, there have been very large disparities in the amounts being spent on exploration by each contractor: in some cases, the expenditure reported was greatly in excess of the expenditure proposed in the original programme of activities, with no clear reason reported. The need for reported expenditure on exploration to be properly itemised and reported and to relate only to the actual and direct costs of exploration activities in relation to the specific contract areas is a matter that will become particularly important in the future if, in the context of regulations governing exploitation, contractors seek to offset their development costs against profits or royalties due to the Authority. Since all the existing contractors have enjoyed very long periods for exploration, it will be essential to ensure that allowances for expenditures incurred during exploration are strictly limited to the actual and direct costs of exploration carried out with a view to commercial exploitation.

With regard to the programmes of activities for coming years – up to 2011 – all the contractors essentially plan to continue to work at the same pace: no significant changes to the types of activities have been proposed, even though four contractors have identified first-generation mine sites. No one proposed to carry out research on the physical problems of recovering nodules from the ocean floor and transferring them to transport ships, or relating to alternative equipment and methods that contractors may ultimately use in commercial mining; and no proposals to ascertain the cost of mining nodules from the seabed and processing them into metals of commercial interest have been made. For most contractors, the emphasis remains on the analysis of existing data and the opportunistic collection of environmental baseline data through scientific research cruises. Notwithstanding the fact that this situation may be considered reasonable, given the technological and economic conditions relating to seabed mining that prevailed until recently, the time-limit of 15 years,¹⁵ during which contractors have exclusive rights to explore the areas allocated to them, has its rationale in the very essence of the legal regime of the common heritage of mankind. The current leisurely pace of activities, however, would suggest that the contractors would basically continue to sit on the

sites and seek multiple extensions of their contract if they are to retain the allocated areas. Prolonged blocking of access to the resources is neither an efficient nor equitable way of administering the resources, which belong to mankind as a whole, as underlined by the Secretary-General.¹⁶ In this sense, the Authority is expected to enhance efforts towards first mining activities.

New Challenge: Future Exploitation Phase

The Authority has declared that its policies on the organisation and control of all mineral-related activities in the Area are not expected to change in the immediate future with the election of the new Secretary-General, Nii Allotey Odunton. Speaking after his election, Odunton said that the Authority would continue to seek to realise “the full benefits obtainable from the common heritage of mankind”, and gave the assurance that he would do everything possible to ensure a smooth transition.

New challenges will be faced by the ISA as advances in technology and increasing demand for metals will lead some of the contractors to start mining activities and commercial development: rules and procedures for exploitation will be put in place to complete the establishment of an effective regime for seabed mineral utilisation. When the exploitation phase starts, it would be convenient for the functioning of the whole system, as well as for the United States themselves, if they sat at the table not as an observer, but as a member of the system.

The outgoing Secretary-General, S. Nandan, focused the Authority on output and environmental management in the Area. Considering that three of the present challenges for the law of the sea – ecosystem-based management, protection of marine biodiversity, and the legal and regulatory regime of marine genetic resources beyond national jurisdiction – overlap with the management of the Area, the Authority is expected to continue exercising its responsibility in environmental protection, which is secondary to its main responsibility of managing mineral resources, but still very important.

Future Activities

In 2009 and 2010, two key workshops are planned. One (to be hosted by Chile) will review the geological model of polymetallic nodule deposits in the Clarion-Clipperton Zone, and the second will ascertain the modalities for scientific collaboration in research on cobalt-rich ferromanganese crust deposits in the international seabed Area. Tonga has also offered to host a regional seminar in cooperation with the Authority. Since the geological model of polymetallic nodule resources in the Clarion-Clipperton fracture zone has been widely appreciated, additional work is planned for the use of that zone as a model for such resources in the Central Indian Ocean basin. In addition, it is proposed that a seminar be organised to discuss the impact of deep seabed mining on the economies of developing land-based producing countries.

During the fourteenth Annual Session of the ISA's Legal and Technical Commission, several members suggested a need to review 2001 recommendations for the guidance of contractors in the assessment of possible

impacts arising from exploration for polymetallic nodules, in the light of advances in knowledge and sampling techniques that had taken place since then.

The tentative dates for the fifteenth Annual Session of the International Seabed Authority are 25 May–5 June 2009, in Jamaica.

Conclusions

During its first 12 years, the ISA has conscientiously fulfilled its duty to promote and encourage marine scientific research in the Area through the organisation of workshops and seminars, and the dissemination of their results. It has developed the framework for the exploration and prospecting of polymetallic nodules, and it is in the process of elaborating similar regimes for polymetallic sulphides and cobalt-rich ferromanganese crusts.

The decisive step now will be operational, if and when mining activities commence in earnest. While that development is delayed (waiting for the necessary technology to be refined and for the market feasibility of seabed mining), the Authority risks being permanently converted into a management body. In the meantime, the Authority will continue in its efforts to prepare an effective and workable regulatory regime.

Notes

1 The International Seabed Authority came into existence on 16 November 1994, upon the entry into force of the UNCLOS. It became operational as an autonomous international organisation in June 1996.

2 The Comprehensive Nuclear Test Ban Treaty, the Convention on the Elimination of All Forms of Discrimination Against Women, and the United Nations Convention on the Law of the Sea.

3 Intended as “the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction” (Article 1.2 of the UNCLOS), which is the scope of application of the activities of the International Seabed Authority.

4 Namely the: imposition of permit requirements, fees and taxation on seabed mining; ban on mining without ISA permission; the use of collected money for wealth redistribution in addition to ISA administration and the mandatory technology transfer.

5 Article 136 of the UNCLOS prescribes: “the Area and its resources are the common heritage of mankind”.

6 So far the two inhibiting factors for commercial mining have been the lack of development of mining technology and the price of metals.

7 These are Yuzhmoregeologiya (Russian Federation), Interoceanmetal Joint Organization (IOM) (Bulgaria, Cuba, Czech Republic, Poland, Russian Federation and Slovakia), the Government of the Republic of Korea, China Ocean Mineral Resources Research and Development Association (COMRA) (China), Deep Ocean Resources Development Company (DORD) (Japan), IFREMER (France), the Government of India and the Federal Institute for Geosciences and Natural Resources of the Federal Republic of Germany.

8 Regulations for Prospecting and Exploration of Polymetallic Nodules in the Area.

9 The Seabed Council worked on the completion of a review of draft regulations for the prospecting and exploration of polymetallic sulphides in the Area, as well as a review of the annexes relating to those regulations during the fourteenth session, in June 2008.

10 The Legal and Technical Commission during the fourteenth Annual Session concentrated its work on the analysis of the draft regulations on prospecting for cobalt-rich ferromanganese crusts and at the conclusion of its work, in its report to the Council, the Commission recommended the adoption of the draft regulations with a number of revisions that it proposed, together with the inclusion of an anti-monopoly provision. Then the LTC would review the revised text at its next session with a view to formally adopting it for submission to the Council at the fifteenth session. For a comprehensive overview of the technical proposal of the Commission see ISBA/14/C/8.

11 Established in 2002 to enhance the participation of members of the Finance Committee and the Legal and Technical Commission from developing countries in those bodies.

12 The International Seabed Authority Endowment Fund, established in 2006, promotes and encourages the conduct of collaborative marine scientific research

in the international seabed area through two main activities: by supporting the participation of qualified scientists and technical personnel from developing countries in marine scientific research programmes and activities, and by providing opportunities to these scientists to participate in relevant initiatives.

13 All member States of the United Nations Convention on the Law of the Sea (157 in November 2008) are *ipso facto* parties to the Authority, according to Article 156.2 of the Convention, but there are 22 parties to the Convention that did not ratify the 1994 Agreement relating to the Implementation of Part XI of UNCLOS, and these are therefore parties to the Authority but not obliged by the Agreement. Although members of the Authority that are not parties to the 1994 Agreement necessarily participate in the work of the Authority under arrangements based on the Agreement, becoming a party to the Agreement would remove an incongruity that currently exists for those States. For this reason, each year since 1998, at the request of the Assembly, the Secretary-General has circulated a note to all members in this position urging them to consider becoming parties to the 1994 Agreement.

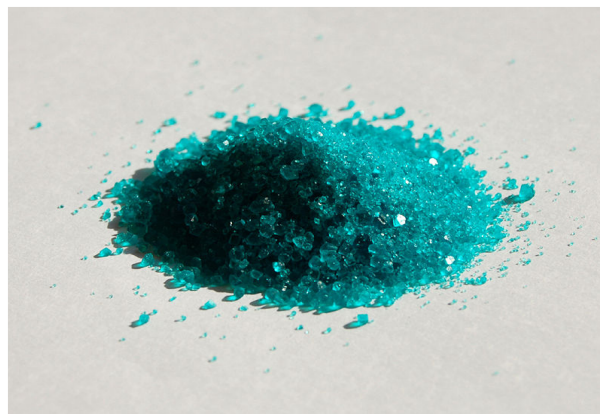
14 According to Article 76.4 a) of UNCLOS: a State that can provide scientific data on this point, to the Commission on the Limits of the Continental Shelf within ten years of the entry into force of the Convention for that State can clarify its rights in that area, up to a maximum of 350 nautical miles. The Commission will make recommendations on how to establish the outer limits of the continental shelf and, once the coastal State establishes these limits on the basis of the Commission's recommendation, the boundaries will be final and binding. As a result of these submissions, the Area might be reduced by approximately 15 million km². This is a strong signal showing the extent of the interest of the international community towards mineral exploitation of the seabed, and the tendency to enlarge jurisdictional rights in areas that are still beyond national jurisdiction, in order to reduce the scope of application of the common heritage of mankind regime.

15 After 15 years, in the absence of special circumstances, contractors will either move to the exploitation phase or surrender the areas allocated to them.

16 ISBA/14/A/2.



Manganese nodule



Nickel sulphate crystals

Courtesy: Wikipedia

CMS / COP-9

2010 and Beyond: Wildlife Renaissance

by Elisa Morgera*

The 9th Conference of the Parties (COP-9) of the CMS (hosted by Italy on 1–5 December) was held in Rome, Italy, following a series of Meetings of the Parties (MOPs) of various instruments adopted under CMS's auspices, including MOP 1 of the Gorilla Agreement, a meeting of the UNEP/GEF Siberian Crane project steering committee, and a meeting to discuss the proposed CMS project "Concerted action on the large mammals of the Aridlands of Eurasia". In addition, CMS convened the thirty-fourth meeting of the CMS Standing Committee and the fifteenth meeting of the CMS Scientific Council on the fringes of the COP, and the second meeting to identify and elaborate an option for international cooperation on migratory sharks was held following its completion.

Since COP-8, the number of CMS parties has grown from 93 to 110.¹ COP-9 also witnessed further expansion of the Convention Appendices with 11 species added to Appendix I and 10 to Appendix II. Nine new non-legally binding instruments (Memoranda of Understanding or MOUs) and one new legally binding Agreement have been added in that time as well.

Such constant development symbolises the CMS's success in catalysing international cooperation on wildlife protection, but has also fuelled concerns about actual delivery capacity and manageability of the extended "CMS family". Consequently, COP-9 started a process of reflection on the "future shape" of the Convention, with a view to systematising and prioritising work for the years to come. The COP also considered key policy issues such as climate change, wildlife disease and marine wildlife conservation issues (bycatch and ocean noise).

Appendix Listings

Listing on CMS Appendix I (list of migratory species threatened with extinction) serves as the CMS Parties's agreement to adopt strict protection measures for the listed species. COP-9 added three dolphin species (Black Sea population of Bottlenose dolphin, Irrawaddy dolphin and Atlantic humpback dolphin), the West African manatee, Baer's pochard, Egyptian vulture, Peruvian tern, Yellow-breasted bunting, Cerulean warbler, Streaked reed-warbler and Cheetah to this list. As regards the Cheetah, the COP adopted an exception for populations in Botswana, Zimbabwe and Namibia that are subject to quotas under the Convention on International Trade in Endangered Species (CITES).

Appendix II (list of migratory species that need, or would significantly benefit from, international cooperation) was expanded by adding Barbary sheep, African wild dog, Saiga antelope and Cheetah, as well as the Mediter-

anean population of Bottlenose dolphin, West African population of Clymene dolphin, the North-west African population of Harbour porpoise and the Mediterranean population of Risso's dolphin. After some discussion, the Parties also added Longfin and Shortfin mako sharks, Porbeagle sharks and the northern hemisphere population of Spiny dogfish, although certain parties made statements to the record concerning the insufficient scientific evidence to support the listings of Mako and Porbeagle sharks.

Protracted discussions focused on the proposed Appendix I listing of the Saker falcon, which was eventually withdrawn due to opposition from Arab countries that use it traditionally for hunting and that argued that sufficient protection is provided to it by the recent MOU on birds of prey in Africa and Eurasia. Although the listing proposal was withdrawn, the COP adopted a resolution urging parties to take action to improve the conservation status of the Saker falcon, and recommending that a proposal for its Appendix I listing be put forward at the next COP unless transparent and significant improvement in its conservation status is achieved.²

The COP also considered the possibility of potential future listings. It encouraged parties to identify priority issues, species and habitats requiring CMS intervention in the next decade. It called upon the Scientific Council to establish a dialogue with several other international bodies working on marine biodiversity³ and to consider the current and predicted conservation status of arctic migratory marine species (both listed or those that may be listed in future). It also encouraged parties to prepare listing proposals on megafauna of Central and Western arid lands and of the Sahel-Saharan region. In the resolution on tigers and other big Asian cats, parties asked the Scientific Council to review their conservation and management and to propose action at COP-10.

New and Future Agreements

New international instruments provoked some interesting discussion. The only new agreement that is legally binding – the Agreement on Conservation of Gorillas and their Habitats (Gorilla Agreement, 2007) – entered into force on 1 June 2008, and has been ratified by six out of ten range states. Focused on education, research and forest protection, the Agreement's first MOP resulted in the adoption of four action plans for four gorilla taxa.

The nine new non-binding instruments are primarily focused on facilitating exchange of scientific, legal and technical information, and fostering cooperation among experts and international organisations working to implement their respective action plans. They are:

- The MOU on the conservation of the Ruddy-headed goose (2006);

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- The MOU for the conservation of cetaceans and their habitats in the Pacific Islands (2006);
- The MOU concerning the conservation, restoration and sustainable use of the Saiga antelope (2006);
- The MOU for the protection of Eastern Atlantic populations of the Mediterranean monk seal (2007);
- The MOU on the conservation of southern South American migratory grassland bird species (2007);
- The MOU on the conservation and management of Dugongs and their habitats (2007);
- The MOU concerning the conservation of the Manatee and small cetaceans of western Africa and Macronesia (2008);
- The MOU concerning the conservation of migratory birds of prey in Africa and Eurasia (2008);
- The MOU on the Andean flamingo (concluded and signed during COP-9).

The COP adopted an additional resolution calling for implementation and operationalisation of existing instruments during the period 2009–2011, and for maintaining momentum on agreements under development. On the latter point, the parties specifically supported:

- the definitive conclusion of an instrument on sharks;
- further protection of threatened sturgeon species;
- the conclusion of an instrument on marine turtles for the Pacific region;
- the conclusion of an instrument on cetaceans in South-east Asia;
- the development of an instrument on Central Eurasian aridland mammals; and
- the identification of an instrument on sub-Saharan and African bats.



COP-9 Chair Fernando Espina (Italy) and Vice-Chair Alfred Oteng-Yeboah (Ghana)

Courtesy: IISD

By separate resolution, parties also agreed to include in the programme of work the development of an instrument on elephants in Central Africa.

In addition, the second meeting to identify and elaborate an option for international cooperation on migratory sharks, held immediately after COP-9, agreed that the

new instrument would be a non-legally-binding MOU, but could not come to final agreement as to the species to be covered. The MOU negotiators expect to conclude negotiations at a third meeting, to be held in the Philippines at a date to be determined.

The “Future Shape” of the CMS and its Budget

The fecundity of the “CMS Family” led some parties, in particular the European Union, to urge consolidation and prioritisation of future development and commitments under the Convention. They are concerned to ensure implementation of existing agreements rather than expending primary efforts on the development of new ones. These considerations resulted in a resolution calling for an intersessional process to explore possibilities for the future strategies and structure of CMS and its family. This process will focus on options for ensuring a more integrated conservation programme, examine the development of new agreements and implementation of existing ones, emphasise a sound scientific base for decision making in the framework of the CMS, and link to the strategic plan and the new plan being developed for 2012–2017. Following review by its Standing Committee and circulation to all CMS members, members of CMS Agreements and other UN bodies, the report on the “Future Shape of the Convention” will be considered at COP-10.

Key Policy Issues

In the face of the increasing workload of the Convention and the global economic crisis, parties adopted a modest core budget totalling €6,573,923. The budget provides for two new secretariat posts – one scientific support officer, and a partnership and fund-raising officer. The latter office was asked to focus on developing a code of conduct for partnerships with the private sector.

As other biodiversity-related conventions have done in the recent past, the COP-9 considered the issue of climate change. Delegates agreed that climate change impacts on migratory species fall within the CMS area of competence. They called for identification of migratory species that are most likely to be directly or indirectly impacted by climate change, by mitigation and/or by adaptation activities. Parties agreed to incorporate climate change

impacts and adaptation measures into species-specific action plans and not to delay decision making and action in this regard, despite the uncertainty of some regarding impacts of climate change on migratory species.

COP-9 also addressed concerns regarding wildlife diseases, including avian influenza. Their resolution called

for the establishment by the CMS and FAO Animal Health Service, of a new scientific task force on the issues. They directed the CMS working group on migratory species as vectors of diseases to become part of that task force.

Discussions of marine wildlife conservation concentrated on bycatch and ocean noise, resulting in a resolution urging Parties to take special care and “where appropriate and practical” to control impacts on habitats of vulnerable species. In addition, “where appropriate” they will undertake environmental assessments on the activities that may increase noise-associated risks for marine mammals and mitigate impacts of high-intensity active naval sonar as a precautionary measure until an assessment of their environmental impact has been completed. Parties underscored the need to consult with stakeholders conducting activities known to produce underwater noise pollution. The resolution urged Parties to develop and implement effective management of anthropogenic noise. Although parties could not agree on a definition of bycatch, they adopted a resolution calling for improvement of reporting and the application of appropriate fisheries management measures to mitigate bycatch. They asked the Scientific Council to identify best practice on bycatch mitigation techniques, and the Secretariat to investigate the feasibility of assessing impact of bycatch on migratory species. The resolution also called for improving the cooperation between CMS and FAO with regards to bycatch, and for an exchange of information between regional fisheries management organisations (RFMOs) and the CMS.

UNFCCC / COP-14

Poznan: Midway to Copenhagen

by Joanna Depledge*

The Poznan Climate Conference was a classic “in-between” negotiating session. Taking place 1–12 December 2008 under a Polish Presidency, the talks marked the midway point between the groundbreaking Bali Conference (December 2007) that launched the current comprehensive negotiating round, and the Copenhagen Conference (December 2009), the deadline for that round. Expectations for such “in-between” conferences are typically low, as delegates are simply not yet ready to strike deals. Other accidents of timing ensured that Poznan would never be a historic conference. The fact that the US Administration would change hands in January 2009 – and to a President-elect with very different views on climate change to the existing one – in effect tied the hands of the US delegation. Even the EU found itself distracted by critical talks on its new climate package that were taking place simultaneously in Brussels (see p. 66). The Poznan Conference also unfolded against the backdrop of

Concluding Remarks

The growth in membership and species covered by CMS and its Agreements has led to intensive considerations of key policy issues by its Parties. COP-9 provided the opportunity to discuss the risk that the “CMS Family” may become a victim of its own success, and decided to prevent it by starting a process of self-reflection, consolidation and prioritisation to ensure that expansion is accompanied by the appropriate conditions for delivery. The enlarged CMS system must, moreover, work more closely with other international organisations and processes (FAO, IMO, RFMOs, CBD, CITES, UNFCCC and other multilateral environmental agreements), so that its limited resources complement, rather than duplicate, the activities, negotiations and studies in those bodies. Internal and external readjustments, however, are not likely to stop the expansion of the CMS system. Hopefully they will nurture it.

Notes

1 The new parties are Algeria, Angola, Antigua and Barbuda, Bangladesh, Cape Verde, Cook Islands, Costa Rica, Cuba, Estonia, Gabon, Kazakhstan, Honduras, Iran, Madagascar, Palau, Serbia and Yemen.

2 The Resolutions and Recommendations adopted by COP-9 are available at: http://www.cms.int/bodies/COP/cop9/COP9_Pre_final_res_rec_en.htm.

3 These international bodies include the Convention on Biological Diversity (CBD), the Food and Agriculture Organization of the United Nations (FAO), regional fisheries management organisations (RFMOs), the General Assembly working group on marine biodiversity in areas beyond natural jurisdiction, the International Whaling Commission and the International Maritime Organization (IMO).



turmoil on the world’s financial and economic markets, with uncertain repercussions for the climate negotiations. On the one hand, many senior delegates were at pains to insist that the current economic unrest should not deflect attention from the long-term challenge of climate change. Some even claimed that investment in climate-friendly growth would provide a way out of the downturn. On the other hand, the prevailing instability clearly contributed to the sense that concrete decisions, especially those with financial implications, should not be taken in Poznan.

This was the busiest and most complex negotiating session yet held in the climate change regime, including meetings of six bodies:

- The Conference of the Parties to the UN Framework Convention on Climate Change (UNFCCC COP-14);
- The COP serving as the meeting of the parties to the Kyoto Protocol (CMP-4);
- The two permanent subsidiary bodies – the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation – (SBSTA and SBI 29);

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- The Ad Hoc Working Group on Long-Term Cooperative Action (AWGLCA-4); and
- The Ad Hoc Working Group on new commitments for Annex I parties under the Kyoto Protocol (AWG-KP-6).

Copenhagen Negotiations

The spotlight inevitably fell on the two Ad Hoc Working Groups (AWGLCA and AWGKP) which, put together, are working towards a comprehensive new deal on the future of the climate regime by the Copenhagen deadline.¹ Discussions in the AWGLCA drew on an “assembly” of proposals from Parties and intergovernmental organisations prepared by Chair Luiz Figueiredo Machado (Brazil). The document was updated at the end of the session, and is now nearly 110 pages long. The AWGLCA resolved to move into “full negotiating mode” in 2009, and gave Chair Machado a mandate to prepare a “negotiating text” by June. This mandate was important, as the AWGLCA’s work may well result in an amendment to the Convention (or even a new protocol). The draft of any such legal document must be circulated to all parties at least six months before its adoption.² The AWGKP

targets would then flow. This was not acceptable to the Annex I parties, who preferred a “bottom-up” approach of aggregating individual target pledges, the same approach as was used in Kyoto. Only a very few countries have yet pledged proposed targets, among them the EU (see page 66). Delegates were comfortable enough with the 25–40% range to mention it once again in the AWGKP’s conclusions, but only as an option, and without linking it to individual country targets.

The AWGKP also agreed that further commitments for Annex I parties for the next period should “principally take the form of quantified emission limitation or reduction objectives”. This may help to allay concerns that some developed countries might try to wriggle out of quantitative emission targets, and seek looser forms of commitments instead (*e.g.*, intensity targets).

Protocol Review

There was one issue on which Poznan was not an “in-between” conference, but an intended deadline. This was the second review of the Kyoto Protocol under the SBI, charged with considering possible improvements to the Protocol. The central bone of contention was



Courtesy: UNFCCC

took a similar step in mandating its Chair, Harald Dovland (Norway), to ensure that the draft text of any proposed amendment to the Protocol is ready by June.

Given that the US is not a Party to the Kyoto Protocol, the AWGKP was not quite so affected by the lame-duck US delegation as the AWGLCA. It is also at a more advanced stage in its discussions, and was therefore able to enter into somewhat more serious negotiation over the text of its conclusions. A key issue in the AWGKP has been defining the level of collective ambition of the next round of emissions targets. In the current period under the Kyoto Protocol (2008–2012), the collective Annex I party (developed country) commitment amounts to a 5.2% cut from 1990 levels. The focal point for debate in the AWGKP has been the emission cuts cited by the Intergovernmental Panel on Climate Change (IPCC), in its Fourth Assessment Report, as necessary to stabilise atmospheric greenhouse gas concentrations at 450 ppm, namely, a 25–40% cut in Annex I party emissions by 2020. In Poznan, developing countries wanted to secure agreement on this range as the new collective target for Annex I parties, from which individual country

whether to extend the levy currently imposed on the Clean Development Mechanism (CDM) (to fund adaptation projects in developing countries) also to the other market mechanisms, Joint Implementation (JI) and emissions trading. Only slightly less controversial was the question of simplifying procedures for new countries to take on emissions targets under the Protocol. Negotiations on the second review dragged on beyond the scheduled end of the Poznan Conference, but eventually came to naught. The economies in transition (EITs, the former Soviet Union and Central and Eastern Europe) were strongly opposed to the extension of the CDM levy. Their reasons were clear: doing so would remove one of the comparative advantages of JI and emissions trading (where EITs are the main sellers) for attracting investors relative to the CDM, whose projects are exclusively hosted by developing countries. With parties unable to agree on this core issue, less contentious text on more technical modifications to the market mechanisms was also thrown out. This led to some disappointment, especially among developing countries keen to extend the adaptation levy, but also among those seeking reform of the market mechanisms, notably more

effective governance of the CDM. In retrospect, however, there was never any real chance that an issue of such fundamental political importance as the extension of the CDM levy could ever have been agreed at an “in-between” conference. Whether or not the levy is extended will form a central pillar in whatever deal is agreed in Copenhagen, and the EITs were unlikely to concede such a critical point so early on. Although negotiations on the second review have formally concluded without result, the issues under discussion will undoubtedly be revisited in other bodies in the run-up to Copenhagen.

Adaptation Fund, Technology Transfer

The most significant outcome of Poznan was to operationalise the Adaptation Fund, which administers the CDM adaptation levy. The main sticking point here was the demand by developing countries that parties should be able to submit project proposals directly to the Adaptation Fund Board. To recall, the Adaptation Fund is run by an independent Board composed of party representatives, rather than by the Global Environment Facility (GEF), which provides only secretariat services. Giving parties direct access would require granting legal status to the Adaptation Board to enter into contracts and finance projects. Although direct access had already been agreed in principle in Bali, donor countries, including the EU, dragged their feet, calling for further analysis of the legal implications. The issue was taken up by ministers in the final days of Poznan, and developing countries eventually won out. The CMP duly conferred the Adaptation Fund Board with “such legal capacity as necessary for the discharge of its functions” relating to direct access. It also adopted a memorandum of understanding with the GEF (which the GEF Council must now endorse), along with rules of procedure for the Adaptation Fund Board and terms/conditions of service to be provided by the World Bank as trustee. The decks are now clear for the Adaptation Fund to begin converting certified emission reductions levied on CDM projects into hard cash, and distributing these to adaptation projects.

In another small victory, delegates in Poznan put the finishing touches to the “Poznan strategic programme on technology transfer”. This GEF strategic programme had been agreed in principle in Bali, but developing country delegates at the last subsidiary body meetings (Bonn, June 2008) had been less than enthusiastic about the GEF’s efforts in getting the programme started. Further negotiation in Poznan helped smooth over concerns, and the programme can now start to facilitate project preparation and implementation.

Old Controversies

Elsewhere, delegates ploughed on with the usual issues on the climate agenda. Many of the old controversies, political divisions and unresolved concerns that confront delegates year after year surfaced yet again, most of them concerning developing country participation in the regime. The group of least developed countries (LDCs), for example, expressed particular concern at the difficulties they face in accessing finance from the LDC fund (man-

aged by the GEF) to implement their national adaptation programmes of action (NAPAs). Incredibly, although 39 LDCs have submitted NAPAs, only one has yet received the funding required for its implementation. The COP urged the GEF to speed up the funding process.

In another long-standing dispute, delegates clashed over national communications (reports) from non-Annex I Parties (developing countries). The crux of the matter concerns the extent to which developing country reports should be subject to review; at present, their reports are compiled and synthesised, but not reviewed in the same way as Annex I party communications. Developing countries have long opposed any extension of the review process for their reports, viewing this as an added commitment. A provisional agenda item on “information contained in non-Annex I communications” was thus held over until the next session, because of developing country opposition to its inclusion on the agenda. This item was originally proposed in 2006 by developed countries – with the Umbrella Group and EU unusually speaking in concert – and has been in abeyance ever since.

The controversy surrounding this specific aspect of non-Annex I communications has had the unfortunate effect of also blocking the work of the Consultative Group of Experts on non-Annex I national communications (CGE). Since its launch in 1999, the CGE has carried out valuable work on improving non-Annex I communications, but its mandate expired in Bali. Some developed countries, notably the US, are now linking the renewal of the CGE’s mandate to their demands for the review of non-Annex I communications, leading to deadlock. This row is particularly ominous, given that the closely related topic of ensuring that developing country actions (and also those of developed countries) are “measurable, reportable and verifiable” is so central to the ongoing Copenhagen negotiations. The acrimonious political baggage over non-Annex I communications will not make for easy discussions.

CDM

In another portent of things to come, a split emerged among developing countries in debates over the CDM. A major concern surrounding the CDM is the heavy concentration of projects in a handful of countries, and in particular the very limited representation of Africa. Eighty percent of projects are hosted by just six countries, while only eight projects are currently registered in Africa, compared with over 850 in Asia, and nearly 400 in Latin America and the Caribbean. LDCs (most of which are located in Africa) and small island developing states (SIDS) wanted the CDM Executive Board (CDM-EB) to develop methodologies specific to their circumstances, in order to encourage more projects among their members. Some other developing countries, however, including Colombia and Saudi Arabia, did not want particular groups singled out, preferring to treat all under-represented developing countries equally. In the end, the CMP requested the CDM-EB to streamline the process for all countries hosting less than 10 CDM projects, mentioning LDCs, SIDS and Africa in particular, but not exclusively.

The CDM-EB will also develop methodologies appropriate to countries “under-represented in the CDM” to help them “realize their CDM potential”, but with no specific mention of any group.

Open clashes between developing countries are uncommon in the climate change regime. Disputes were always likely to emerge over the CDM, however, given that individual developing countries are inescapably in competition with each other for investment. Such disputes will probably become more frequent, as the Copenhagen negotiating round turns its attention this year to developing country issues and obligations. As is well known, the G-77 guards its unity fiercely. However, there will come a point when the staggering differences in circumstances and interests among the developing countries make this unity untenable, on all but the most broadly ideological of issues. The LDCs and SIDS are already becoming more assertive in defending their own interests, and have made it clear that they are not prepared to take on the same kind of obligations as the larger and more industrialised G-77 members. In Poznan, however, the G-77 as a group still expressed its firm opposition to the differentiation of commitments among developing countries.

Other controversies over the CDM included the possible extension of eligibility to projects involving lands with “forests in exhaustion” (proposed by Brazil) and carbon capture and storage (CCS) in geological formations (proposed by Saudi Arabia). There was no agreement on either proposal, including among the G-77, with Brazil, Venezuela and SIDS opposed to CCS in the CDM at the present time, given uncertainties. The issue was taken up at ministerial level, but in the end both proposals were

forwarded to the CDM-EB for further consideration. The CDM-EB is due to report back in Copenhagen. It is becoming increasingly clear that some kind of deal on CCS in the CDM will be needed to get the oil-exporting developing countries on board.

Looking Ahead

So are the prospects for a new global deal in Copenhagen more or less favourable after Poznan? It is difficult to say. Negotiations are certainly on track procedurally, even if politically there was little movement. Events in Poznan pale into insignificance, however, compared to the importance of Barack Obama’s election as US President. Although the new US negotiating position in the Copenhagen talks remains to be defined, Obama has already promised a new chapter on climate change and stated that he will “engage vigorously” in the international process.³ Climate delegates therefore have good reason to hope that, when they meet again in late March, it will be to negotiate with a much more positive US delegation. After eight years of disengagement bordering on obstruction, that will be a refreshing change indeed. The climate negotiations leading up to Copenhagen may be immensely difficult and complex, but the glimmer of hope at the end of the tunnel just got brighter.

Notes

1 The AWGKP is negotiating the next round of emission targets for Annex I parties (developed countries) under the Kyoto Protocol, while the AWGLCA is charged with devising a comprehensive deal under the Convention, encompassing both developing and developed countries (in practice, the US).

2 UNFCCC Articles 16 and 17.

3 Obama vows climate “engagement”, 18 November 2008, at <http://news.bbc.co.uk/1/hi/sci/tech/7736321.stm>.



Montreal Protocol / MOP-20

Replenishment Agreed

by Joanna Depledge*

The 20th Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer (MOP-20) took place 16–20 November 2008, in Doha, Qatar. The 8th Conference of the Parties to the Vienna Convention for the Protection of the Ozone Layer (COP-8) convened in parallel. Some 500 delegates participated.

Replenishment

Marco Gonzalez, Executive Secretary of the Ozone Secretariat, noted in his opening statement that this was a particularly “future-oriented” conference.¹ In this respect, the main outcome of the session was agreement on the replenishment of the Multilateral Fund for the next triennium, 2009–2011. MOP-19 the previous year had accelerated the required phase-out schedule for hydrochlorofluorocarbons (HCFCs) in developing countries (and

developed countries). This deal was struck on the explicit understanding that sufficient funds would be made available to developing countries to finance the phase-out (see *EPL* 37/6: p. 448). MOP-20 now had the task of realising that understanding through the Multilateral Fund’s replenishment. As usual, negotiations took place on the basis of a funding assessment prepared by the Technology and Economic Assessment Panel (TEAP). This recommended a replenishment of US\$ 399–630 million, depending on varying assumptions over how much HCFC use would rise in the short term (an initial freeze is not required until 2013). The hard bargaining, which the *Earth Negotiations Bulletin* likened to bartering in a Qatari “souq”² (market), unfolded mostly in a closed negotiating group, composed of 12 developing and 12 developed countries. Predictably, developing countries sought a higher replenishment than donor countries were prepared to concede, and the prevailing economic and financial turmoil no doubt meant that

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donor pledges were revised downwards. Nonetheless, all parties declared themselves reasonably satisfied with the eventual compromise: at US\$ 490 million, this represented

a small increase (US\$ 20 million) on the last triennium. Taking into account contributions from interest and carry-over of unspent funds, donors will only have to cover

A Climate-friendly Supermarket

The opening of the new Tengelmann *Klimamarkt* (climate-friendly supermarket) in Mühlheim an der Ruhr (Germany) provides an excellent example of the way in which climate protection can be realised by responsible businesses. The *Klimamarkt* is a part of the Tengelmann Group's commitment under the leadership of Karl-Erivan Haub to meet the targets of the Kyoto Protocol and reduce its emissions of carbon dioxide by 20% by the year 2020. This group of businesses, also sponsors of the International Council of Environmental Law through the Elizabeth Haub Foundations, have long been actively engaged in all aspects of sustainable development.

Employing a number of technologies, the *Klimamarkt* is a modern, zero carbon-emitting and net energy-producing supermarket. Climate-friendly features include:

- Geothermal heat combined with heat-pumps;
- “Cool fixtures”, that provide heating while keeping fresh and frozen foods cold. (Recycling this “waste heat” heats the water and keeps the air temperature stable, meeting 75% of the building's heating needs. Combined with the heat exchange pumps, the supermarket requires no boiler or traditional heating resources such as natural gas or oil);
- Daylight harvesting (*i.e.*, skylights that allow daylight in, coupled with light-monitoring technology that adjusts the spectrum produced by the building's artificial lighting);
- Glass doors for all refrigerated and freezer cabinets, coupled with new cooling technology using carbon dioxide only, rather than any other coolant;
- A 1,140 m² solar array covering the roof, and south and west sides of the building, producing 45,000 kilowatt hours of electricity per year, also reflecting the pre-existing commitment of all 700 Tengelmann and Kaiser's supermarkets in Germany to use only renewable energy;
- A subterranean cistern, intended to harvest up to 100,000 l of rainwater, to be used in cooling carbon dioxide. (ATL)



US\$ 400 million. In effect, for most donors, their contributions will remain stable, and may even fall slightly.

ODS Destruction

Also looking towards the future, delegates debated the destruction and disposal of ozone-depleting substances (ODS), mostly chlorofluorocarbons (CFCs), which have not been consumed before their phase-out dates. This represents, in effect, the end-game of the ozone regime. The focus of the Montreal Protocol is on bringing down the production and consumption of ODS, and not on their actual destruction (which involves breaking them down to render them inert). However, in the absence of further action, leakage from banks of ODS is likely to lead to significant future emissions, with implications for both the ozone layer and climate change. This issue has long simmered in the background for the ozone parties. With CFCs and other ODS already all but eliminated from developed countries, and their phase-out also imminent in developing countries, the question of how to deal with remaining ODS banks is moving up the ozone agenda. In response, delegates mandated the TEAP to conduct a comprehensive cost-benefit analysis of the environmental benefits and economic costs of destruction, compared with the alternative option of recovery, recycling and reuse.

Climate/Ozone Linkages

At present, the Multilateral Fund does not fund ODS destruction. However, it can finance pilot projects, and it was asked to do this, with priority on ODS with high global warming potential (GWP) in a representative sample of regionally-diverse countries. The question of who will finance ODS destruction is an important one, as the process of rendering ODS inert can be expensive. In this respect, delegates wondered whether the clean development mechanism (CDM) under the climate change regime might provide a possible avenue for funding, especially for ODS with high GWP. The ozone secretariat was charged with consulting with the climate change bodies, as well as the World Bank and others, to discuss funding opportunities. Clearly, both the climate change and ozone regimes have an interest in destroying ODS once and for all and, although the feasibility of using the CDM in this way is questionable, it is encouraging that creative ways of acting upon that mutual interest are being considered. Also acting on climate/ozone linkages, delegates agreed to a US proposal to convene an "open-ended dialogue" on ODS substitutes with high-GWP (such as hydrofluorocarbons, HFCs). The climate change secretariat, along with national climate experts, will be invited to input into the dialogue. At the Poznan Climate Conference, held soon after the Doha meetings (see p. 24), climate delegates took note of the ozone regime's planned activities relevant to climate change, and encouraged the climate secretariat to take part.

Metered-dose Inhalers

By 2010, developing countries must have completed their phase out of CFCs. This means that MOP-21 in 2009 is likely to receive the first requests for essential-use

exemptions for CFCs by developing countries, notably for use in metered-dose inhalers (MDIs) to treat asthma and related conditions. Delegates took the decisions needed to enable those exemption requests to be processed. They also debated whether, and if so how, one-off "campaign production" of CFCs could be organised. Rather than granting annual exemptions, this would involve manufacturing, in one go, all the CFCs likely to be needed up until all MDIs switch to alternatives. The possibility of campaign production has long been considered in the ozone regime, but it has gained added salience with the imminent CFC phase-out in developing countries. The TEAP recommended such campaign production, even suggesting 2011 as a possible timeline. Delegates decided that more information was needed, however, and requested the TEAP to produce a report for MOP-21, assessing such issues as potential timing, options for storing the CFCs until they are needed, and how to minimise the risk that too much, or too little, is produced.

In the short term, the TEAP eventually accepted essential-use exemption requests for CFC use in MDIs in developed countries from the EU and the US, but only after those parties had trimmed down their requests considerably. Even then, the Panel gave its approval only "reluctantly",³ warning that it would not approve any further essential-use exemptions for the particular MDI type nominated by the US. The EU stated that it would phase out all CFC use in MDIs by 2010.

Other Issues

Activities under the Vienna Convention are now mainly focused on scientific research and monitoring of the state of the ozone layer and UV radiation levels. In this regard, delegates were concerned to hear of anticipated gaps in satellite monitoring capacity, and urged these to be brought to the attention of decision makers and rectified.

The Doha meetings also blazed a trail towards the future on an entirely different front, becoming the first ever paperless conference held in the UN system. The initiative was declared successful, and Qatar was applauded for donating the computer equipment and paperless system to UNEP to enable further paperless conferences. Executive Secretary Gonzalez reported that the next session of the UNEP Governing Council/Global Ministerial Environmental Forum would now also go paperless. Given the mountains of paper usually printed at UN conferences, this initiative may well make a greater contribution to environmental protection than many hotly-negotiated substantive decisions.

MOP-21 will next meet in Sharm-El-Sheik, Egypt, in late 2009. The COP is held only every three years, and will next convene in 2011.

Notes

1 UNEP/OzL.Conv.8/7, UNEP/OzL.Pro.21/7, Report of the eighth meeting of the Conference of the Parties to the Vienna Convention and the twentieth meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer (COP-8/MOP-20 report), para. 6.

2 See *Earth Negotiations Bulletin*, "Summary of the 8th Conference of the Parties to the Vienna Convention and 20th Meeting of the Parties to the Montreal Protocol", 16–20 November 2008. www.iisd.ca/linkages.

3 COP-8/MOP-20 report, paras 66 and 67.



Ramsar / COP-10

Overview of Results

by Elsa Tsioumani*

The 10th meeting of the Contracting Parties (COP-10) to the Ramsar Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention) took place in Changwon, Republic of Korea, 28 October–4 November 2008, and had as its theme “Healthy Wetlands Healthy People”. With more than 2,000 participants, the meeting resulted in the adoption of 32 resolutions on a series of wetlands-related issues including the status of sites in the Ramsar list of wetlands, climate change, biofuels, extractive industries, poverty eradication, human wellbeing, and international cooperation for flyway conservation, as well as on administrative and budgetary issues and the Convention’s new Strategic Plan.¹

Enjoying a great deal of public attention in the host country as well as the entire Asian region, the meeting witnessed significant commitments from Contracting Parties on the status of several Ramsar sites, particularly in Africa, while acknowledging with regret the ongoing degradation of many Ramsar sites around the world. The linkages between the ecological character of wetlands with several global policy issues, including water and food security, poverty eradication, human health, and climate change were also recognised in several resolutions; however, many felt the meeting could have done more to ensure that wetlands receive particular attention in the UN-FCCC deliberations.

Background

The Convention on Wetlands, also known as the Ramsar Convention, was signed on 2 February 1971, in Ramsar, Iran, and came into force on 21 December 1975. Its official name, *The Convention on Wetlands of International Importance especially as Waterfowl Habitat*, reflects the original emphasis upon the conservation and wise use of wetlands primarily as habitat for waterbirds. However, over the years, the Convention has broadened its scope of implementation to cover all aspects of conservation and wise use of wetlands as ecosystems critical for conservation of biological diversity and for the wellbeing of human communities, thus fulfilling the full scope of the Convention text.

The Ramsar Convention currently has 158 Parties. Its mission, as adopted in 1999 and refined in 2002, is “the conservation and wise use of all wetlands through local, regional and national actions and international

cooperation, as a contribution towards achieving sustainable development throughout the world”. The “flagship” of the Convention is the List of Wetlands of International Importance: presently, the Parties have designated for this List more than 1800 wetland sites covering 161.3 million hectares. Among Parties’ commitments are to: designate at least one site that meets the Ramsar criteria for inclusion in the Ramsar List and ensure maintenance of the ecological character of each Ramsar site; include wetland conservation within national land-use planning in order to promote the wise use of all wetlands within their territory; establish nature reserves on wetlands and promote training in wetland research and management; and consult with other parties about Convention implementation, especially with regard to transboundary wetlands, shared water systems, shared species and development projects affecting wetlands.



Urban wetlands near the conference venue

Courtesy: IISD

The Conference of the Parties to the Ramsar Convention meets every three years to assess progress in implementing the Convention and wetland conservation, share knowledge and experience on technical issues, and plan the next triennium. Furthermore, the Convention’s work is supported by a Standing Committee, a Scientific and Technical Review Panel (STRP), and the Ramsar Convention Secretariat, which is located within IUCN: the Ramsar Convention is not part of the UN or UNEP system of environmental treaties.

Strategic Plan 2009–2015

The newly adopted Strategic Plan identifies key issues that are driving continued change, deterioration and loss of wetlands and their services, including: the inadequate availability of water to wetlands, in relation to wetlands’

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key roles in the global hydrological cycle; increasing demands for water abstraction, particularly for irrigated agriculture; the impacts of a changing and increasingly extreme and unpredictable climate; and the lack of a good understanding of the value of wetlands and their services to underpin sound decision making and trade-offs. There is an urgent need therefore for national environmental governance to “shift from sectoral, demand-driven approaches to an ecosystem-based approach to policy and decision making that affects the wise use of wetlands”.

The Strategic Plan then outlines a list of goals and outcomes sought, including on wise use, wetlands of international importance, international cooperation and Convention management; and strategies to achieve these goals. On wise use, strategies include, among others: wetland inventory and assessment; global wetland information; policy, legislation and institutions; cross-sectoral recognition of wetland services; integrated water resources management; wetland restoration; invasive alien species; the private sector; and incentive measures. On wetlands of international importance, strategies address: Ramsar site designation and information; management planning; site ecological character, status and management effectiveness; and management of other internationally important wetlands. On international cooperation, strategies address: synergies and partnerships with multilateral environmental agreements and intergovernmental organisations; regional initiatives; international assistance; information sharing; and shared wetlands, river basins and migratory species. Other strategies address the Convention’s institutional capacity, effectiveness and membership, and include communication, education and public awareness; its financial capacity; effectiveness of its bodies; and collaboration with the Convention’s International Organization Partners and others.

Financial and Budgetary Matters

Despite initial opposition by Japan and the US, the meeting finally agreed on a 4% annual increase in the budget over a four-year period, as well as on the establishment of a partnership coordinator post in the Secretariat. A highlight of the discussions was the commitment by the African countries to increase their contributions by 100% to CHF 2000 each, with the funding to be earmarked for the African Regional Centre and other regional initiatives.

Secretariat Legal Status

The meeting considered three options, including their legal and financial implications: maintaining the current arrangement with IUCN; becoming an independent international organisation; or seeking integration in the UN system and administration by UNEP. With agreement that the issue should be further considered during the intersessional period, the meeting established an *ad hoc* intersessional working group on administrative reform.

Status of Sites in the Ramsar List of Wetlands

The meeting noted the designation of approximately 250 new Ramsar sites since COP-9, recognised however

that the pressures on Ramsar sites are likely to increase, and that many Ramsar sites have undergone or are undergoing changes in their ecological character by virtue of the land use and other pressures affecting them. Attention was paid to the reporting requirements according to the Convention, and Parties were requested to provide their reports to the Secretariat, including when human-induced changes have occurred in the ecological character of a site. The meeting encouraged establishment of an International Wetlands Restoration Award, to encourage Parties to restore degraded wetlands by recognising and disseminating best practices.

Environmental Impact Assessment

The meeting invited Parties to use the Voluntary Guidelines on Biodiversity-inclusive Environmental Impact Assessment and Strategic Impact Assessment, adopted by the eighth Conference of the Parties to the Convention on Biological Diversity (CBD), with additional annotations prepared by the Ramsar STRP on specific aspects relating to wetlands and the Ramsar Convention.

Millennium Ecosystem Assessment

The meeting encouraged Parties to utilise, as appropriate, the Millennium Ecosystem Assessment (MA) response options relevant to their implementation of the Convention at the national level, and requested the Secretariat, with the advice of the STRP, to incorporate information relevant to the MA response options into the appropriate Ramsar Wise Use Handbooks.

Wetlands and River Basin Management

The meeting adopted consolidated scientific and technical guidance for integrating wetland conservation and wise use into river basin management. Sets of guidelines address: integration of the conservation and wise use of wetlands into river basin management; national policy and legislation for integrated river basin management; establishment of river basin management institutions and strengthening of institutional capacity for integrated river basin management; national policy and programmes for communication, education and public awareness; national policy related to stakeholder participation; establishment of supporting policy, legislation and regulation at river basin level; establishment of appropriate institutional arrangements at river basin level; development of programmes on communication, education and public awareness, and stakeholder participation processes at river basin level; inventory, assessment and enhancement of the role of wetlands in river basin management; identification of current and future wetlands and their biodiversity; maintenance of natural water regimes to maintain wetlands; assessing and minimising the impacts of land use and water development projects on wetlands and their biodiversity; and management of shared river basins and wetland systems, and partnership with relevant conventions, organisations and initiatives.

Debate mainly centred on issues of terminology, as delegates could not agree on whether to use “transboundary” or “shared” in the context of river basins, resulting

in the inclusion of an explanatory note in the adopted text; and on references to specific international conventions and organisations, including the UNECE Water Convention, the Convention on the Law of the Non-Navigational Uses of International Watercourses and the World Trade Organization.

Avian Influenza

The meeting adopted guidance on responding to the continued spread of highly pathogenic avian influenza (HPAI). In the resolution, the meeting reaffirms that attempts to eliminate HPAI in wild bird populations



Children from the 10 countries which have hosted Ramsar COPs presented the message of COP-10

Courtesy: IISD

through lethal responses such as culling are not feasible and may exacerbate the problem by causing further dispersion of infected birds; and that destruction or substantive modification of wetland habitats and waterbird nest sites in order to reduce contact between wild birds and humans and their domestic birds does not amount to wise use. It further stresses that surveillance should be undertaken within the context of normal legal regulations regarding wildlife and should have minimal impact on threatened and other populations concerned. The STRP is requested to determine whether lessons learned from responses to HPAI H5N1 have implications for Ramsar guidance relating to wetlands and their wise use; and to consider how best to develop practical guidance on the prevention and control of other diseases of either domestic or wild animals in wetlands, especially those diseases that have implications for human health, and how such guidance can be best incorporated into management plans at Ramsar sites and other wetlands.

The guidance on responding to the continued spread of HPAI includes guidelines for reducing avian influenza risks at Ramsar sites and other wetlands of importance to waterbirds, including on risk assessment, risk reduction measures, wild bird surveillance and outbreak response planning; recommended ornithological information to

be collected during surveillance programmes or field assessments of wild bird mortality events; and information regarding ornithological expert panels.

International Cooperation for Flyway Conservation

The meeting strongly encouraged Parties and other governments to actively support and participate in relevant international plans and programmes for the conservation of shared migratory waterbirds and their habitats. It further urged Parties to identify and designate as Ramsar sites all internationally important wetlands for waterbirds on migratory flyways; and to enhance their efforts to address the root causes of the continuing decline in waterbird status. It also urges the governing bodies of flyway initiatives to take steps to share knowledge and expertise on best practices in the development and implementation of flyway-scale waterbird conservation policies and practices, and encourages the Secretariats of the Ramsar Convention, the Convention on Migratory Species, the African-Eurasian Waterbird Agreement and the biodiversity programme of the Arctic Council to work together to establish a mechanism for such sharing of knowledge and experience.

Annexed to the resolution is the Edinburgh Declaration, which was adopted at an international conference on waterbirds, their conservation and sustainable use, held in Edinburgh, Scotland, from 3–8 April 2004; and the conclusions from the International Symposium on East Asian Coastal wetlands, held in Changwon, Republic of Korea on 27 October 2008 on the importance of conserving intertidal wetlands in the Yellow Sea Ecoregion.

Wetlands, Human Health and Wellbeing

In the adopted resolution, the meeting called on Parties and all those responsible for wetland management to take action to improve the health and wellbeing of people in harmony with wetland conservation objectives; to address the causes of declining human health linked with wetlands by maintaining or enhancing existing ecosystem services that can contribute to the prevention of such declines; and to ensure that any disease eradication measures in or around wetlands are undertaken in ways that do not jeopardise the maintenance of the ecological character of the wetlands and their ecosystem services, for example by reducing and more precisely targeting the use of pesticides. Parties are urged to make the interrelationship between wetland ecosystems and human health a key component of national and international policies, plans and strategies; and to ensure that decision making on co-managing wetlands and human health issues takes into account current understanding of climate change-induced increases in health

and disease risk, and maintains the capacity of wetlands to adapt to climate change and continue to provide their ecosystem services.

Climate Change and Wetlands

In one of its most debated resolutions, the meeting reaffirmed the need for Parties to make every effort in the implementation of the UNFCCC and, as appropriate, its Kyoto Protocol, to consider the maintenance of the ecological character of wetlands in national climate change mitigation and adaptation policies. It urged Parties to manage wetlands wisely to reduce the multiple pressures they face and thereby increase their resilience to climate change and to take advantage of the significant opportunities to use wetlands wisely in order to reduce the impacts of climate change; to ensure that the necessary safeguards and mechanisms are in place to maintain the ecological character of wetlands, particularly with respect to water allocations for wetland ecosystems, in the face of climate-driven changes and predicted changes in water distribution and availability due to the direct impacts of, and societal responses to, climate change; and to take urgent action, as far as possible and within national capacity, to reduce the degradation, promote restoration, improve management practices of peatlands and other wetland types that are significant greenhouse-gas sinks, and to encourage expansion of demonstration sites on peatland restoration and wise use management in relation to climate change mitigation and adaptation activities. The Secretariat and the STRP were requested to work together with relevant international conventions and agencies to develop a working partnership to investigate the potential contribution

deliberations might prejudice matters under consideration in the UNFCCC framework, many delegates called for using language already agreed upon in that process.

Wetlands and Biofuels

In another hotly debated resolution, the meeting recognised that biofuel production and use should be sustainable in relation to wetlands, and called upon Parties, consistent with any applicable national legislation, to assess the potential impacts, benefits and risks, including drainage, of proposed biofuel crop production schemes affecting Ramsar sites and other wetlands, particularly the implications for surface and groundwater resources, to apply environmental impact assessment and strategic environmental assessment as appropriate, and to seek to avoid negative impacts, and where such avoidance is not feasible, to apply as far as possible appropriate mitigation and/or compensation/offset actions, for example through wetland restoration. It further urged Parties to consider formulating appropriate land-use policies for the sustainable production of biofuels, recognising the need for accelerated implementation of policies that promote the positive and minimise the negative impacts of production and use of biofuel feedstocks on wetlands; to promote sustainable production and use of biofuels through strengthened development cooperation, the transfer of technologies, and information exchange; and to strive to ensure that any policies for biofuel crop production should consider the full range and value of ecosystem services and livelihoods provided by wetlands and the biodiversity they support, and to consider the trade-offs between these services alongside cost-benefit analysis and make use of, as



The Upo Wetland

Courtesy: IISD

of wetland ecosystems to climate change mitigation and adaptation, in particular for reducing vulnerability and increasing resilience to climate change; and to use appropriate mechanisms to work with the UNFCCC and other relevant bodies, recognising the distinct mandates and independent legal status of each Convention and the need to avoid duplication and promote cost savings, to develop guidance for the development of climate change-related activities.

Main points of disagreement included specific references to mitigation and adaptation, reducing emissions from deforestation and forest degradation, and the role of wetlands in mitigating climate change. With the fear that

appropriate, the application of the precautionary approach as defined in Principle 15 of the 1992 Rio Declaration on Environment and Development. Parties are also encouraged to consider the cultivation of biomass on rewetted peatlands (paludiculture) and to promote sustainable forest and agricultural practices that will mitigate any adverse impacts of biofuel production. The STRP was instructed to: review the global distribution of biofuel production in relation to impacts on wetlands; review and collate existing best management practice guidance, and social and environmental sustainability appraisals for growing biofuel feedstocks in relation to wetlands, and where appropriate develop such guidance and appraisals in collaboration with

other relevant international organisations; consider further discussion between the Contracting Parties on addressing sustainable biofuel issues in relation to wetlands; advise the Standing Committee of its conclusions; and work with relevant international bodies dealing with biofuels.

Wetlands and Extractive Industries

The meeting emphasised the importance of the strategic environmental assessment (SEA), particularly in relation to the extractive industries sector, and encouraged Parties to apply the guidance on environmental impact assessment (EIA), ensuring that they adequately address the impacts on wetlands of the full spectrum of activities associated with extractive industries. The meeting urged Parties to review and revise regulatory and permitting procedures related to extractive industrial activities, in order to ensure that impacts on wetland ecosystems and their ecosystem services are avoided, remedied or mitigated as far as possible, and that any unavoidable impacts are sufficiently compensated for in accordance with any applicable national legislation. These procedures should allow sufficient time for collection of wetland inventory and baseline information to support effective EIA, permitting and oversight of extractive industries, especially with respect to enforcement of compliance with the conditions of authorisations and licences, and particularly to ensure that local and indigenous communities have appropriate opportunities to participate in decision making. Parties are also urged to take appropriate measures/actions in order to reduce the environmental impacts of extractive activities on pristine peatlands; to ensure that existing or new extractive industrial development projects address the need, as far as possible, to avoid, remedy or mitigate the impacts of these projects, and to compensate, in accordance with any applicable national legislation, for the loss of livelihoods that may result directly or indirectly from the impacts of these projects on wetland biodiversity and ecosystem services; to complete national wetland inventories and to collect baseline information in order to strengthen and support SEA and EIA processes, especially in those areas that are potentially the focus of exploration and development of new extractive industrial projects; and to ensure that the boundaries of all designated Ramsar sites within their territories are accurately delineated and mapped, and if necessary protected under national laws, and that this information is made freely available and easily accessible to all relevant regulatory agencies and ministries, private-sector bodies with interests in existing or new extractive industrial development projects, civil society and stakeholders.

Wetlands and Poverty Eradication

In the adopted resolution, the meeting urged Parties to integrate wetland wise use and management into relevant national and regional policies; respect and incorporate traditional knowledge and practices and local perspectives into national wetland management and sustainable livelihood initiatives; ensure that early warning systems and contingency plans established to safeguard people against natural disasters include the use of wetland management

and, as appropriate, restoration measures to protect against impacts of climate change, sea-level rise, and saline intrusion; encourage the introduction of payments for ecosystem services to raise funds for poverty eradication programmes, including through avoided deforestation and avoided wetland degradation, as well as through private-sector partnerships for access and benefit sharing; and consider wetland services as economic goods so their use may be included in tax-based economic mechanisms such as “user pays”, and so that these contribute to national poverty eradication programmes and investment in sustainable wetland management. The STRP is requested to develop specific guidance on implementing relevant resolutions, including: developing an integrated framework for linking wetland conservation and wise use with poverty eradication; identifying and developing indicators relating wetland wise use to livelihoods and poverty eradication; and collating and reviewing examples of how wetland degradation affects people’s livelihoods and how maintenance or restoration of the ecological character of wetlands can contribute to poverty alleviation.

Enhancing Biodiversity in Rice Paddies as Wetland Systems

The meeting encouraged Parties to promote further research on flora, fauna and ecological functions in rice paddies and on the cultures that have evolved within rice-farming communities that have maintained the ecological value of rice paddies as wetland systems, in order to identify sustainable rice paddy farming practices that reinforce wetland conservation objectives and provide ecosystem services. It further invited Parties to consider offering recognition and/or protection to such sites, and to disseminate and exchange information on these practices and sites among governments, farmers and conservation agencies, in order to support improvement of sustainable rice farming practices and water management. It called upon Parties to: identify challenges and opportunities associated with managing rice paddies as wetland systems in the context of the wise use of wetlands; and ensure that planning, farming practices and water management are implemented.

The Changwon Declaration on Human Wellbeing and Wetlands

The Declaration highlights positive actions for ensuring human wellbeing and security outcomes in the future under five priority thematic headings, and two key areas of cross-cutting delivery mechanisms: water and wetlands; climate change and wetlands; people’s livelihoods and wetlands; people’s health and wetlands; land-use change, biodiversity and wetlands; planning, decision making, finance and economics; and sharing knowledge and experience.

Notes

¹ The resolutions adopted by Ramsar COP-10 and the Conference report are available at: http://www.ramsar.org/index_cop10_e.htm. For daily coverage, as well as a summary and analysis of the meeting, see the reports of the International Institute for Sustainable Development Reporting Services, at: <http://www.iisd.ca/ramsar/cop10/>.



UNCCD

Desertification

– Review of Implementation and Technological Progress –

The UN Convention to Combat Desertification (UNCCD)'s Committee for the Review of the Implementation of the Convention held its 7th meeting (CRIC 7) in Istanbul, Turkey last November, in conjunction with a special Session of the Committee on Science and Technology (CST). Their work focused on implementation of the UNCCD 10-year Strategy, adopted in 2007 at COP-8 (Madrid), which seeks "to make the UNCCD a systemic and worldwide response to global environment issues affecting land and its ecosystems".

the ongoing UN process of National Capacity Self Assessments (NCSAs) will enhance the COP's and Secretariat's ability to design a comprehensive capacity-building approach at global level and the members' ability to do so at a national level. Hence the new reporting system is expected to "focus on providing information about how the Convention has been mainstreamed into their development cooperation strategies". Other suggestions propose that the secretariat should "develop a common framework for the definition and selection of best practices" and



Grégoire de Kalbermatten, Deputy Executive Secretary, Luc Gnacadja, Executive Secretary, Massimo Candelori, Secretariat, and Chair Israel Torres

Courtesy: IISD

Regarding Science and Technology, the CST focused on the adoption of "a minimum number of indicators to measure the impact of the implementation of the Convention". Their work was apparently based on the belief that "a common standard will make analysis at the national, sub-regional, regional and global levels feasible", thereby increasing the effectiveness of the implementation of the Convention.

These efforts of the CST integrated well with the work of CRIC 7 which, according to UNCCD reports, was focused on "Finding what works – and what doesn't". In addition to the standard discussions found in all UNCCD meetings, regarding international cooperation, financing through the global mechanism and other matters, the CRIC focused on one primary substantive issue (national reporting, analysis and assessment) as well as several procedural matters.

CRIC delegates indicated that analysis of performance and impact indicators would enable affected countries and development partners to get a better understanding of effective implementation practices and activities. They expect that the new reporting system, in conjunction with

discontinue the alternation system of reporting (African Parties not reporting at the same time as other Parties). Perhaps most important, they recommended alignment of the UNCCD's action programmes with The Strategy, but taking measures to ensure that this alignment process does not slow the process by which existing action programmes reach the members.

The CRIC also reportedly gave significant attention to another key element of UNCCD implementation – the integration of civil society organisations (CSOs) into the review process. Ultimately, its recommendation was relatively simple (possibly an indication of the difficulty of the topic):

Some Parties believe it would be useful to name the relevant stakeholders that should be integrated into the reporting process and to specify which stakeholders should be involved in the consultative processes relating to the reporting, including decentralised administrative bodies and CSOs.

The CRIC's report will be a primary input into the UNCCD COP-9 this October (venue tba). (TRY)

