

# CIVIL SOCIETY CONSULTATIONS ON INTERNATIONAL ENVIRONMENTAL GOVERNANCE

Nairobi, 22-23 May 2001

## SUMMARY REPORT

### INTRODUCTION

1. At the twenty-first session of the Governing Council of the United Nations Environment Programme (UNEP)/Global Ministerial Environment Forum, held in Nairobi from 5 to 9 February 2001, the Council adopted decision 21/21 entitled "International environmental governance", in which it outlined a process for the review of the current state of international environmental governance and the submission of the results of the review to the World Summit on Sustainable Development, to be held in Johannesburg in 2002. The Council stipulated that the review process should benefit from, among other inputs, the views of major groups and individuals from outside the United Nations system.
2. The Civil Society Consultations on International Environmental Governance were held on 22 and 23 May 2001 at UNEP headquarters in Nairobi in order to enable representatives of civil society organizations to give their views on international environmental governance in general, and specifically on the issues addressed in a report of the Executive Director on the subject (UNEP/IGM/1/2). The views expressed by the representatives of civil society would be taken into account by the Executive Director in the subsequent stages of the review process.
3. The consultations were attended by representatives from 56 civil society organizations from all regions around the world. They represented a wide diversity of institutions, stakeholders and major groups, including non-governmental organizations, the business community, faith-based organizations and research institutes. The representatives of 5 Permanent Missions to UNEP attended also as observers.

### I. SUMMARY OF THE OBSERVATIONS

4. The participants of the Civil Society Consultations, having exchanged their general views, held in-depth discussions in smaller groups to address specific issues of international environmental governance, the outcome of which was addressed at the final plenary meeting of the Consultations on 23 May 2001. A summary of their observations is presented below.

#### A. Multilateral environmental agreements

5. Since 1992, there had been a fragmentation of environmental governance and issues, and that had led to the gradual erosion of UNEP's environmental authority. The undermining of UNEP's authority had been further exacerbated by the fact that multilateral environmental agreements were headquartered in different places in the world.

6. Most such agreements did not have compliance mechanisms. In order to remedy those and other weaknesses in the area of environmental governance, the following recommendations were made:
- (a) UNEP should be strengthened. It is not necessary to create a new environmental body. Rather, UNEP should be the coordinating unit for the environment;
  - (b) To that end, UNEP's mandate, which dates from 1972, should be revised and modernized, as should its rules of procedure;
  - (c) All multilateral environmental agreements, as well as the new secretariat dealing with persistent organic pollutants, should be located at UNEP;
  - (d) All multilateral environmental agreements should have sound compliance mechanisms put in place immediately after adoption. These mechanisms should be streamlined and centralized, and they should involve civil society actors;
  - (e) Information on multilateral environmental agreements and their relation to UNEP should be prepared in user-friendly language for distribution at the World Summit on Sustainable Development;
  - (f) The environmental functions of the Commission on Sustainable Development should be transferred to UNEP;
  - (g) Meaningful participation by civil society in international environmental governance should include influencing the negotiation and compliance processes, access to information and participation in national reporting. To facilitate such participation, a database of civil society groups should be established and criteria for the involvement of civil society developed;
  - (h) A steering committee for non-governmental organizations and civil society should be set up;
  - (i) Training should be carried out on issues of compliance for government officials, civil society members and the judiciary;
  - (j) Some UNEP activities, in particular special projects carried out by UNEP's unit on non-governmental organizations, could be carried out through the creation of trust funds.

#### B. Financing

7. UNEP had transformed itself from a sectoral-issue-oriented organization into a cross-cutting-issue-oriented organization. The issue was raised of whether a sectoral or cross-cutting organization was more effective. One reason for the lack of funds allocated to UNEP was the competitiveness among United Nations-funded agencies and duplication of functions. A world environment organization might offer the advantage of having a more stable source of funds. Such an organization would be of greater interest to States if it took on critical roles such as dispute settlement and liability and redress. It would nevertheless be impossible to remove environmental issues from the mandates of other United Nations agencies such as the Food and Agriculture Organization of the United Nations (FAO).

8. Several sources of funding for UNEP were discussed: taxes, investment sector funding and investment guarantee systems. Some of those systems need to be studied further. Private-sector funding normally had two forms: direct contributions by the private sector or direct private investment in green enterprises and sustainable development. Other forms of private-sector funding were sponsorships and prizes. For UNEP to receive other types of private-sector funding, it would have to offer environmental goods and services.
9. The role of debt relief should be further studied: often debt payments had been funded by plundering the natural resource base of a country. If such money could be invested in the environment, all would benefit.
10. The general conclusion was that UNEP should seek more sustainable and stable sources of finance.

### C. Compliance

11. Compliance mechanisms were characterized as inadequate and even absent from some multilateral environmental agreements. The large number of such agreements was one of the obstacles to compliance and enforcement. Governments were overloaded by reporting requirements. In some cases, the obligations of various treaties even conflicted. Currently, it was mainly developing countries which were pressured to comply with agreements and threatened that aid would be withheld. Current dispute resolution mechanisms tended to favour economic interests rather than environmental concerns. Moreover, they focused on disputes between States rather than those in which transnational bodies were involved.
12. It was recommended that:
  - (a) Whenever a multilateral environmental agreement is agreed on, compliance mechanisms should also be put in place at the same time. The compliance mechanisms should incorporate both incentives and sanctions;
  - (b) The role of information (reporting, verification, dissemination, etc.) should be promoted as a tool of compliance;
  - (c) Both developing and developed countries should be subject to the same formal and transparent compliance mechanisms, which must also contain dispute settlement provisions.
13. It was suggested that in the short term:
  - (a) The capacity of Governments, civil society and the secretariats of multilateral environmental agreements should be strengthened in the areas of information and verification;
  - (b) The capacity of the judiciary and civil society should be strengthened in international environmental law;
  - (c) Civil society should have direct access to dispute settlement;
  - (d) Like-minded countries should establish an alliance on critical compliance and enforcement issues.

14. The following specific recommendations were made:
- (a) A joint dialogue on international environmental governance should be convened to bring together the groups already consulted separately;
  - (b) A set of criteria for the major groups in the multi-stakeholder process should be developed;
  - (c) Various modalities of empowering civil society should be considered.

#### D. Visions for UNEP and its mandate

15. UNEP should retain its catalytic role and also seek to become an executing agency. It should be responsible for sustainable development rather than the environment in isolation. It should diversify and expand its governance structures to include representatives of civil society. It should allocate more responsibilities to partner non-governmental organizations and other agencies. It should assist the Governments of developing countries to fulfil their reporting obligations (by making the obligations simpler), as well as to participate more effectively in global environmental negotiations. It should be fully transparent by making its budget information easily accessible. It should have predictable and sustainable funding to enable it to carry out its mission.

## II. KEY ISSUES AND PERSPECTIVES HIGHLIGHTED AT THE CONSULTATIONS

16. The two main issues facing the participants in the meeting were: what were the current weaknesses in international environmental governance, and what were the options for the future? Governments were doing their best to address the problems, and had expressed their own views separately on the Executive Director's report, but they badly needed the advice, support and action of civil society in their efforts.
17. Some participants observed that many legally binding agreements had been produced since 1990, and that the time had come to give priority to their implementation through mechanisms to promote compliance which would include a dispute settlement component.
18. Financial, technical and political support for implementing the existing agreements should be generated.
19. In addition, further policy development was required in two areas: the establishment of legally binding rules to regulate the conduct of transnational corporations, and the establishment of legally binding agreements on agriculture, which would aim at banning dumping and export subsidies, preventing biopiracy and further strengthening the current regimes on pesticides and genetically modified organisms. The unsustainable type of agriculture being promoted in the North was leading to the destruction of agricultural economies in developing countries.

20. The rulings of the World Trade Organization (WTO) were viewed as undermining the implementation of sustainable development agreements. WTO had a Committee on Trade and Environment, but it had been inclined to look at the negative impacts of sustainable development on trade rather than the negative impacts of trade on sustainable development.
21. Currently, there were four major problems in the international environmental governance system: failed collective action, fragmentation, deficient authority and insufficient legitimacy. Refinement of the institutional status quo would not adequately address those structural problems, and alternative governance architecture was necessary.
22. Several key principles should form the foundation of institutional reform - subsidiarity, policy integration, broad-based participation, transparency and accountability.
23. Instead of devising new institutional units nested within the current structures and multiplying the environmental bodies already existing, the present international environmental governance system should be radically reconfigured to correspond to the multiple levels of governance.
24. What was needed was the consolidation of some institutions, the coordination of the functions and activities of others, and the establishment of permanent consultative relationships with the rest, the core of that new institutional mechanism being a "global public policy network" that would ensure broad representation, meaningful participation, transparency and accountability.
25. Ultimately, the strengthening and revitalization of international environmental governance required a stronger political will, and political will was only generated when enough people dared to dictate to political elites. The future of international environmental governance and the sustainability of life on the planet thus hinged on the ability of civil society groups to galvanize and channel the power of the people they represented.
26. The process of globalization had significantly weakened the ability of countries to protect themselves against exogenous shocks. The increasing number of problems which defied geographical boundaries and required a coordinated international response found many Governments ill-equipped to deal with them and global institutions unable to guide the processes of negotiation, dispute resolution and standardization. That situation translated into what was often referred to as a crisis of global governance.
27. What then was global governance and how could it be improved? One school of thought focused on form, holding that global governance was mainly a matter of assigning and developing appropriate intergovernmental roles and capabilities. Another perspective framed global governance in terms of the relationship between the State and civil society, while a third saw it as the management of governance regimes in such a way that legitimacy and effectiveness were increased.
28. Despite their distinctions, those three viewpoints concurred that global governance existed at the interface between the top-down and bottom-up processes.

29. By contrast, most of the literature devoted to international environmental governance focused on the top-down approach, according to which an improvement in governance was to be sought by reforming government and government-related institutions. Modest but growing bodies of literature were, however, devoted to trying to formalize the role of civil society in the governance process.
30. While all the schools of thought agreed that there was a crisis of international environmental governance, they differed as to the causes of the problem. The dominant perspective saw the crisis as emerging from institutional weaknesses and therefore, advocated the restructuring of institutions as the solution.
31. Such restructuring could take one of three forms: a world environment organization, a revamped UNEP or a reorganization of intergovernmental organizations active in the environment with UNEP at the centre. The school of thought, which viewed global governance in terms of the relationship between the State and civil society, saw the problem as caused by a lack of popular or political support for international environmental governance. Here the solution proposed lay in building a social basis for environmental action.
32. Three ways had been suggested to achieve that end: global issue networks, global public policy networks or regime management. Those network-oriented approaches concentrated on maximizing the impact of the already existing political will and public support. That system would focus on an incremental agenda for change, namely one that built on the existing political will and integrated the environmental agenda into broader social and economic goals.
33. The Secretary-General's Global Compact could be a platform by means of which UNEP could be linked with business and civil society.
34. Concern was expressed at the disparity in the treatment of civil society by various United Nations bodies and Conferences. At the recent conference on least developed countries, non-governmental organizations had been excluded from contact with government delegations, in contrast to other forums where free interaction had been possible.
35. It was pointed out that political will was not the sole preserve of government, but existed in many sectors. Industry and civil society groups could display a high degree of political will, and it should be exploited where it already existed.
36. Attention was drawn to cases of duplication in reporting procedures. An example was given by participants of the Stockholm Convention on Persistent Organic Pollutants, under which a subsidiary body was to be set up to evaluate certain chemicals, whereas the Rotterdam Convention on prior informed consent already had an interim subsidiary body which might be considered to be performing similar functions.
37. At the same time, the phenomenon of compartmentalization had resulted in the establishment of government departments to deal with the ozone layer, biodiversity, climate change, etc. both in developed and developing countries, and the proliferation of those departments meant that many of them were ineffective.

38. Participants from developing countries complained that, despite the fact that they were unable to secure funds to carry out programmes to protect the environment, there always appeared to be plenty of money available for meetings.
39. Duplication in the work of UNEP and the Commission on Sustainable Development was also mentioned. Many participants suggested that the Commission's work could be taken over by UNEP. Those who opposed the suggestion felt that environment and development should not be separated.
40. Participants felt that UNEP had a greater capacity than a number of other institutions which were mandated to carry out work in the field of the environment, but that UNEP kept too low a profile and should be more aggressive, following the example of UNDP.
41. Others considered that more of UNEP's work could be carried out through non-governmental organizations, citing the United Nations Children's Fund (UNICEF), which had drawn on the capabilities of such organizations very successfully. It was also noted that faith-based communities played a very important role in many societies, and that more effort should be made to involve them in protecting the environment.

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