

STATEMENT BY THE UNITED NATIONS ENVIRONMENT PROGRAMME (UNEP) TO THE WTO COMMITTEE ON TRADE AND ENVIRONMENT

Communication from the Secretariat of UNEP

The following statement will be made by the Secretariat of UNEP at the CTE's Information Session with Secretariats of MEAs on 23 July 1998.

Mr. Chairman, it is a honour to meet with this Committee. We are grateful to you, and to the Members of the Committee, for this opportunity to discuss the relationship between MEAs and the WTO.

UNEP places the utmost importance in ensuring stronger coherence among international environmental agreements, and in making concrete progress in integrating trade and environment policies. To that end, this statement is made after close consultation and in close liaison with the following UNEP-administered Conventions and institutions: the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes; the Convention on Biodiversity; the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); the Vienna Convention; the Montreal Protocol on the Control of Substances that Deplete the Ozone Layer; the Multilateral Fund; the Convention on Migratory Species; the 12 UNEP-administered Conventions and programmes on regional seas¹, and UNEP Chemicals, which supports the work of governments towards the recently completed Convention on Prior Informed Consent, as well as supporting the recently initiated negotiations towards a Convention on Persistent Organic Pollutants.

I. DEFINING CORE ENVIRONMENTAL PRINCIPLES

The challenge of building environmental policies is highly complex. It involves the continuous improvement in environmental sciences - in chemistry, biology, physics, mathematical modelling, satellite imagery, as well as in improving methods to test, evaluate and respond to ecological change. Calibrating environmental data with effective policy responses remains a key challenge. Several countries - for example India - are models of how to calibrate environmental monitoring, environmental assessments and the building of appropriate policy responses at the national level.

Moving to the international policy is even more complex, given the highly dynamic nature of ecosystems, as well as the complexity in linking the *symptoms* of environmental degradation - of pollution effects or signs of resource depletion - with their underlying *causes*. Nevertheless, two

¹Examples of regional seas programmes for which UNEP provides secretariat functions include the Mediterranean Action Plan, the West and Central African Action Plan, the Caribbean Action Plan, the Black Sea Action Plan and the North-West Pacific Action Plan.

general observations can be made. First, more often than not, underlying causes of environmental degradation are linked to economic activities, including the persistence of market and pricing failures. And two, our scientific knowledge of environmental change is incomplete. At the same time, given current scientific evidence, imperfect knowledge cannot be an excuse for policy inaction.

In looking at international environmental policy, there has been a tendency in several arenas to regard Multilateral Environmental Agreements, or MEAs, as fragmented and disjointed. The opposite is true. In practical ways, MEAs continuously build upon the experience and real-life policy lessons of their predecessors. MEAs closely follow one another's work. They share scientific research. And, they are built upon a coherent set of policy approaches.

This coherence is reflected in a core set of environmental principles which lie at the heart of MEAs. Time does not allow me to outline all of these principles this morning. They are most readily found in the UNCED *Rio Principles*.

At the centre is an on-going commitment to scientific integrity and the continuous improvement in the environmental sciences. UNEP coordinates several international scientific and technical bodies supporting MEAs, including to the Montreal Protocol and the Convention on Biodiversity, as well as the scientific assessment panel to the Global Environmental Facility, or GEF. The triennial budget of the GEF is approximately \$2 billion, and provides financial assistance to developing countries to lower the incremental costs involved in strengthening environmental management. Other examples include our partnership with the WMO in initiating and supporting the Intergovernmental Panel on Climate Change, work in improving aggregated environmental indicators, in strengthening chemical risk assessment, and many other areas.

These activities are reflected in such core environmental principles as international cooperation in scientific research, environmental impact assessments, and the precautionary principle.

Common principles are also found in the integrated pollution control and integrated life-cycle approaches, based on cradle-to-grave management approaches, and in the use of different prior informed consent procedures to better coordinate and distribute domestic environmental management capacities internationally. Different forms of such procedures are applied in different MEAs, including CITES, the Basel Convention, the draft PIC Convention and the Montreal Protocol. They bear a close resemblance to notification procedures used in international trade policy.

Core environmental principles also include efforts to translate common but differentiated responsibility into action, so as to ensure equitable and fair burden sharing to address the real needs of developing countries in strengthening environmental protection. The GEF is one example of this principle. There are many others. Common principles also include translating the polluter pays principle into practical efforts to internalise environmental costs.

Common principles also include a commitment to public participation. The 30-year history of the environmental agenda demonstrates that the push to launch and strengthen environmental policies has often originated from the dedication of non-governmental organizations and concerned citizens in developing and developed countries alike. The record also shows that the effective implementation of such policies on the ground relies on close partnerships between governments, NGOs, industries, scientists and the public.

Finally, our principles are founded upon an over-arching objective of sustainable development. This term has entered the policy vernacular in a way few terms ever have. It has become a central focus of many efforts. Unfortunately, since it has become so widely used, it runs the risk of becoming all things to all people, and very little by way of practical, operational commitments. Yet our work with MEAs, as well as with different industries and sectors in such areas as cleaner

production and eco-efficiency, demonstrates that sustainable development remains our best strategy to integrate economic and environmental policies.

II. BOTTOM-UP POLICY APPROACHES

In looking at MEA coherence, it is important not to confuse the absence of centralized, top-down decision-making with the absence of policy coherence or institutional coordination. Environmental policies seldom rely solely on top-down approaches, for several reasons. First, the nature of scientific enquiry and more importantly scientific consensus has never relied on yes-or-no type of hierarchical arbitration. Instead, consensus on the implications of scientific evidence for policy formulation has been based on the best judgment of scientists, engineers, technical and legal experts from developing and developed countries, all working together.

This emphasis on consensus-based decisions helps explain a relative absence of formal dispute arbitration in many MEAs. The record of several agreements, for example the Montreal Protocol, shows that responses to non-compliance are based on informal, cooperative solutions as opposed to more formal, punitive-type arbitration. MEAs in general do not work on the assumption that punitive actions are the best response to non-compliance, since the very nature of ecological interdependence demands that cooperative efforts must form the basis of international policies.

Second, given the multidisciplinary nature of environment policy, such policies as noted do not rely on government action alone, but on effective partnerships with many actors - with scientists, governments, industries, NGOs, research centres, and international organizations. The emphasis on market-based instruments is one example of how environmental policies are working effectively through decentralized actions, built increasingly around international frameworks or clusters which together address related environmental problems.

III. INTERNATIONAL POLICY FRAMEWORKS

By way of illustration, the purpose of CITES is to tackle trade-induced species loss. International trade in wild species is an important cause of species risk and biodiversity loss. It is not, however, the only cause or even the lead cause of species extinction. Other pressures - including loss of habitats, change in land use, urban expansion and pollution - all explain biodiversity loss.

Therefore, to understand the effectiveness which CITES has on species conservation, one needs to understand the place of CITES within a larger framework of international, national and local actors. That network includes partnerships with IUCN, with national customs authorities, with local NGOs and communities, with work to coordinate international policing to halt the estimated \$5 billion annual trade in illegal traffic of wild species. The international framework also includes cooperating with other international efforts including the Convention on Biodiversity - which will speak later today - the Convention on Migratory Species, the RAMSAR Convention, commitments undertaken by governments through the approximately 16 regional seas accords related to such areas as the conservation of marine mammals, efforts of the Intergovernmental Forum on Forests - which will also speak today - as well as the impacts of efforts under the Convention to Combat Desertification and many other initiatives.

Similar international frameworks have emerged and are working in the field of chemicals and hazardous wastes, in the protection of marine resources, in the protection of the atmosphere and other areas.

IV. BALANCED POLICY APPROACHES

One point we would wish to stress to this Committee is the importance of understanding the context of individual MEAs in relation to these broader international frameworks.

Another point is the need to remember the context in which individual measures are applied within particular MEAs. MEAs comprise a carefully balanced package or menu of policy approaches intended to reduce and eliminate specifically-delineated environmental risks. That policy package, and the context in which policies are applied, has been carefully designed. It is reviewed and amended by governments - often each year - to ensure that the overall package strikes a balance between effectiveness, scientific integrity, cost efficiency and international equity.

One example of this type of balanced package is found in the Montreal Protocol. Since 1991 the Multilateral Fund of the Protocol has financed over 2,000 projects in 111 developing countries, for a total of over \$750 million, to eliminate the equivalent of almost 100,000 tonnes of ozone depleting substances in developing countries.

Other examples include notification procedures - including export and import permits under CITES, export and import licenses under the Montreal Protocol, and prior informed consent procedures under the Basel Convention - to distribute fairly comparative management capabilities and responsibilities between importing and exporting countries to control trade in a clearly-defined group of such products as hazardous wastes, wild species and ozone destroying substances. Examples also include the development of national legislative capacities in developing countries; strengthening cooperation with national customs authorities when it is needed; and building technical cooperation, training and capacity building.

MEAs also contain what this Committee refers to as trade measures. MEAs and international environmental policy generally do not use this terminology. From our understanding of your use of the term, it is important to stress that different measures - such as quotas or the prohibition in trade with non-Parties in a clearly defined group of products regulated through the MEA - are designed for specific purposes, to address clearly defined environmental problems. They are used sparingly, as a proportional response to mitigate a clearly defined environmental risk identified in a particular MEA. Not all MEAs contain trade measures. However, those that do have adopted such measures through a process of multilateral and transparent decision-making.

In addressing this question, we have noted with some concern that this Committee tends to divide MEAs into two halves: trade measures on the one hand, and so-called positive measures on the other hand. Although this terminology might be useful to your discussions, it bears almost no resemblance to the actual way in which MEAs are designed, implemented or amended. Indeed, we regard this classification as somewhat regressive; it distorts the policy context of MEAs.

The use of this terminology also reflects a more general concern. I have briefly noted some of the variables which together shape environmental policy. This process is highly complex. Although the mandate of this Committee is to discuss one specific aspect of MEAs - that is the legal implications of trade measures - we have rarely felt that these discussions have been guided by a sufficiently clear scientific and technical understanding of how MEAs are designed and actually function.²

²In the spirit of building understanding, UNEP will issue next month a report of the policy effectiveness of three MEAs: the Basel Convention, CITES and the Montreal Protocol, within the context of the trade-environment discussions.

As a result, questions and some doubts have been raised about specific approaches applied in MEAs. A practical result is that Secretariats of MEAs sometimes find themselves being asked informally by the same governments that represent the WTO to second-guess what the reactions of this Committee might be regarding the use of different measures. This happened just two weeks ago during an informal, open-ended meeting of the Montreal Protocol in response to a proposal by some developing countries to prohibit the transfer of obsolete CFC-producing technologies from developed to developing countries. There are other examples in which similar policy ambiguity has arisen and remains unresolved.

Let us be very clear. UNEP and the Conventions it administers are committed to building better coordination with international trade policy. We are convinced that a practical result of the trade-environment debate has been better coordination at the national level involving trade and environment officials. Better coordination leads to better environmental policies, and stronger environmental policies. We will continue to invite the WTO Secretariat to MEA negotiations. We will continue to respond to invitations by this Committee to provide an informal overview of our recent work. Yet, we raise the question as to whether this format of providing informal briefings is the optimal one.

V. THE NEED FOR ACTION

Before looking at this question, let me reiterate that science tells us that we need more resolve, and more action to address growing environmental problems. We do not need policy, legal or institutional ambiguity. Clearly, science cannot form the answer to all environmental questions. International policies are the result of complex trade-offs between what science demands, and what governments and the public are willing to accept based on political and economic feasibility.

At the same time, science leaves no doubt that we need to find more innovative ways to strengthen existing policies, and to craft new approaches which coordinate in a concrete, tangible way international trade and environmental policies.

For science leaves no doubt that we are facing a growing list of acute, unprecedented and accelerating environmental problems that have assumed planetary dimensions.

These problems range from an alarming loss of productive lands because of desertification and soil degradation, to the highest rates of species extinction ever recorded. Conservative estimates suggest that one in five of all animals are threatened, together with 10 per cent of all birds and plants. Science tells us that an alarming jump in rates of cancer, birth defects, a weakened human-immunity systems and other environmentally-related human health effects are linked to the long-term, low-dose exposure to chemicals, pesticides, pollution and other environmental risks. Science tells us that almost 70 per cent of the world's fisheries are on the verge of collapse or in serious decline, that climate change is a reality, that deforestation and the decline in marine resources continues world-wide.

Science also tells us that when countries cooperate through MEAs, advances can be made. To illustrate,

- Last month, the Scientific Assessment Panel of the Montreal Protocol reported that the (quote) "Montreal Protocol is working". Because of the Protocol, the level chlorine and bromine-containing ozone-depleting substances in the lower atmosphere has peaked in 1994, and now has begun to decline. Without the Protocol, ozone-layer depletion in mid-latitudes in the Northern Hemisphere would be at least 50 percent higher than today, and 70 per cent higher at mid-latitudes in the Southern Hemisphere. Without the Protocol, rates of skin cancer would be four times higher than today, while economic damages to the fisheries,

agricultural and other sectors would be several billions of dollars because of reduced plant photosynthesis and a disruption of aquatic food chains.

- At the last Meeting of the Conference of the Parties to CITES, new criteria based on objective scientific and biological indicators were adopted by governments to better assess the status, risk and sustainability of individual species which are proposed for inclusion, change or removal from CITES Appendices. These biological criteria mark an important advance in CITES in ensuring that decisions are science-based.
- In the area of hazardous wastes and chemicals, progress continues in identifying direct and indirect human health and environmental risks linked to a specific categories of wastes and chemicals. For example, in 1997 the Technical Working Group of the Basel Convention helped clarify - based in part on scientific criteria - two categories of wastes - hazardous and non-hazardous. These categories have important operational implications for the implementation of the Convention. Three weeks ago in Montreal, governments began work towards an international convention on persistent organic pollutants for 12 toxic chemicals and pesticides. Scientific data shows that these and other chemicals increase rates of cancer, cause damage to the central nervous system, weaken the human immunity system, increase birth defects, cause birth disorders, and interfere with childhood development.

VI. OPPORTUNITIES AHEAD

I noted at the outset that UNEP places the greatest importance in building coherence among MEAs, and in moving forward on trade-environment. To that end, in the coming months we will work on three fronts: *One*, to elaborate how core environmental principles actually function, and how they create policy coherence among MEAs. *Two*, to improve the application of environmental indicators to MEAs, in order to show more clearly how and why MEAs are working. We will work with the Convention Secretariats on these two questions. Indeed, we believe that these two areas - principles and indicators - are concrete examples of how issues raised in trade-environment discussions can lead to better environmental policies.

And *three*, there is a need for governments to better understand the qualitative and quantitative environmental effects of trade policies, and in particular, to understand the effects which trade liberalization may have in relation to environmental objectives established in different MEAs. The question of environmental reviews of international trade is highly complex. UNEP will begin this work by identifying methodologies which might usefully correlate data between trade-induced economic growth and different types of environmental change. A proposed outline of UNEP's work in the three areas I have noted will be available to governments next month.

Finally, Mr. Chairman, we wish to benefit from our participation today by asking this Committee four questions:

- (1) After following your work, we remain somewhat unclear as to what exactly is implied by the term trade measures, and what the term means precisely in the context of MEAs. It would be helpful if this term were clarified more precisely;
- (2) We also seek clarification from this Committee as to what it views as measures in MEAs which are consistent with trade rules;
- (3) In light of the welcome emphasis which this Committee places on sustainable development, we seek its guidance on what it views in practical terms as sustainable trade policies, and how these policies can help strengthen MEAs;

- (4) And finally, we have long felt that the absence of any formal legal disputes between MEAs and the WTO was a minimum sign of progress in securing real policy coherence between these two international legal regimes. To move from conflict avoidance to coordination, we refer to the statement made by the WTO Director-General in March 1998 on the need for a “framework” to clarify the relationship between MEAs and the WTO. We welcome this idea. We are committed to work with governments to examine whether such a framework is needed, what it might resemble, and how it might work. Today, the UNEP Executive Director has written to the WTO Director-General to explore the idea of a framework. We seek the guidance of the Members of this Committee, as well as the Parties to the different Conventions we administer, on the possibility of such a framework.

Let me conclude by again thanking you Mr. Chairman and thanking the Committee for this opportunity to meet with you.
