PREPARATORY COMMITTEE FOR THE WORLD TRADE ORGANIZATION

RESTRICTED
PC/SCTE/W/4
20 October 1994

(94-2132)

SUB-COMMITTEE ON TRADE AND ENVIRONMENT

DISPUTE SETTLEMENT PROVISIONS IN MULTILATERAL ENVIRONMENTAL AGREEMENTS

Note by the Secretariat

This note responds to requests made at the meeting of the Sub-Committee on 12 July 1994 that the Secretariat provide delegations with information on dispute settlement procedures in multilateral environmental agreements (MEAs). The note describes the general provisions for dispute settlement provided for in MEAs, with references to relevant environmental agreements.[1] It then outlines the specific procedures for dispute resolution in those environmental agreements listed in PC/SCTE/W/3 and TRE/W/10/Rev.1 for which provision is made for dispute settlement.

I. GENERAL PROCEDURES FOR DISPUTE SETTLEMENT IN ENVIRONMENTAL AGREEMENTS

General obligations for the settlement of disputes are contained in Article 33 of the Charter of the United Nations, which lists the dispute resolution techniques to be applied by countries:

> The parties to any dispute, ... shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

Provisions for dispute settlement in environmental agreements incorporate these different techniques, ranging from non-binding, consensus-building mechanisms to judicial settlement. Many MEAs include the entire range of dispute settlement mechanisms, including consultation, mediation, conciliation, arbitration and judicial settlement. However, to date, the evolution of dispute settlement in environmental agreements has emphasized the avoidance of disputes through, for example, enhanced transparency of measures taken by Parties to implement the MEA. Dispute settlement provisions in MEAs have not been used mainly because MEAs are based on general obligations to attain broad environmental objectives and compliance with these obligations is difficult to monitor and enforce.[2] Recently, some MEAs have drawn a distinction between dispute settlement and non-compliance procedures in order to facilitate compliance rather than to reprimand failure to enforce or properly implement the environmental objectives of the agreements.

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[1] This note draws on a paper presented to the OECD's Joint Session of Trade and Environment Experts in October 1994, *Dispute Settlement in Environmental Conventions* (OECD: Environment and Trade Directorates, September 1994).

[2] See David Hunter, Julia Sommer and Scott Vaughan, *Concepts and Principles of International Environmental Law: An Introduction* (Geneva: UNEP Environment and Trade series, No. 2, 1994), pages 15-20.

In order to ensure effective compliance and avoid disputes arising, environmental agreements generally provide for the exchange of information, notification and consultation with potentially affected states, and coordination of relevant international scientific research. In addition, dispute avoidance is encouraged and facilitated through regular meetings of the Parties to review implementation and revise provisions as and when necessary, administrative secretariats to assist with implementation, and regular reporting obligations and monitoring mechanisms. TRE/W/10/Rev.1 describes the kinds of notification requirements that exist in MEAs with respect to trade and trade-related measures which act to increase transparency between Parties and avoid disputes arising from compliance with, or implementation of those agreements.

Generally, disputes arising between Parties are initially submitted to consultation and negotiation between the Parties concerned. Only thereafter is recourse made to the binding, judicial procedures of arbitration or the International Court of Justice, and even then only in exceptional cases. The Montreal Protocol on Substances that Deplete the Ozone Layer (which refers to the dispute settlement procedures in the Vienna Convention for the Protection of the Ozone Layer) has become an important model for the elaboration of legal procedures through which to resolve disputes in MEAs. The flexible, multi-track hierarchy of dispute settlement procedures provided for in the Montreal Protocol allows a Party to select the procedural or institutional mechanism that best conforms to its interests. An Implementation Committee has recently been established to consider and report on any submissions from Parties who have reservations regarding another Party's implementation of its obligations under the Protocol, with a view to securing an amicable resolution.

Most MEAs have provisions for dispute settlement, including consultation, mediation conciliation, arbitration and judicial settlement. A compendium of the procedures for dispute avoidance and settlement in MEAs is outlined below. General provisions concerning transparency and notification of measures taken to implement the agreements act to discourage disputes from arising in the first place. In the event that disputes do arise, most agreements provide for a progressive series of procedures for dispute settlement if the more general provisions for dispute avoidance are not sufficient. Consensual means, including negotiation and conciliation, are applied before undertaking any judicial type of dispute settlement.

1. Provisions for Dispute Avoidance

(i) Monitoring and Reporting

At the most basic level, transparency is an important element in the avoidance of disputes in environmental agreements. Transparency is increased through to provisions which include the collection and exchange of information, coordination of technical and scientific research and general monitoring of, and reporting by Parties, of measures taken to implement the agreement. Although the extent of obligations varies in environmental agreements, these provisions are a common feature of transparency in environmental agreements.

For example, Parties to the Montreal Protocol are obligated to provide data on production, import and export to Parties and non-Parties of ozone-depleting substances. The Convention on Climate Change obliges Parties to communicate to the Conference of the Parties their national inventories of greenhouse gases and a general description of steps taken or envisaged to implement the Convention. The Convention on Biological Diversity states that Parties shall, at intervals to be determined by the Conference of the Parties, present reports on measures which they have taken to implement the Convention. The relevant provisions of the Basel Convention require Parties to prepare annual reports on their transboundary trade of hazardous wastes. In addition, detailed provisions for notice and consent requirements for shipments of hazardous wastes are

designed to ensure that appropriate information is provided to Parties prior to any shipment of such wastes. Parties to CITES maintain records of trade in endangered species, as listed in the three appendices, and report on the number and type of permits granted. In both the Basel Convention and CITES, Parties are obliged to establish national focal points to deal with the implementation of these permit systems.

2. Dispute Settlement Procedures

(i) Negotiation and consultation

As the first measures to be taken in the event that questions arise concerning the implementation of environmental agreements, most agreements contain provisions for negotiation and consultation These mechanisms allow for the exchange of views between Parties to a disagreement with the objective of finding a solution. The Montreal Protocol recommends that Parties seek to shape consensus on the issue in conflict and their decisions and interpretations attempt to reinforce the stability of the Protocol's legal regime as a whole. The Basel Convention provides that when a dispute between Parties arises as to the interpretation or application of, or compliance with the Convention, Parties shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice. The Conventions on Climate Change and Biological Diversity contain almost identical language.

(ii) Mediation

If dispute avoidance mechanisms fail, some environmental agreements recommend mediation in order to facilitate negotiation between the Parties concerned. In most conventions, the role of the mediator is assigned to another Party to the Agreement, the Secretariat or a specific committee of the Convention. For example, the Montreal Protocol and the Convention on Biological Diversity state that if the Parties concerned cannot reach agreement by negotiation, they may jointly seek the good offices of, or request mediation by, a third party. A resolution of the Conference of the Parties to CITES recommends that either the Secretariat or the Standing Committee mediate disputes by working together with the Party concerned with a view to helping to find a solution.

(iii) Conciliation

The establishment of conciliation commissions to settle disputes is provided for in some environmental agreements. The conciliation procedure, whose main objective is to establish the facts of the dispute, does not lead to a binding decision. The conciliation commission makes proposals for the resolution of the dispute which the Parties concerned shall consider in good faith. The Montreal Protocol and the Convention on Biological Diversity provide for disputes to be submitted to conciliation if there is no agreement through negotiation or mediation. The request of an individual Party to the Convention on Biological Diversity is sufficient for the creation of a conciliation commission. The Montreal Protocol states that the conciliation commission shall be composed of an equal number of members appointed by each Party concerned who then jointly appoint a chair; the commission shall render a final decision, which the Parties shall consider in good faith.

The recently elaborated non-compliance procedures under the Montreal Protocol established an Implementation Committee which consists of five Parties who have the responsibility of examining cases of non-compliance with the provisions of the Protocol. Any Party(ies) may report on alleged instances of non-compliance by other Party(ies), the challenged Party(ies) have the opportunity to respond. The Implementation Committee then prepares a report

to the Parties who decide upon and call for steps to bring about full compliance, including measures to assist the Party's compliance and further the Protocol's objectives.

(iv) Arbitration

In some environmental agreements, Parties have determined specific procedures for the arbitration of disputes. Arbitration generally allows for the adjudication of both the Parties to the dispute by a neutral third party of their choice. An arbitral decision is rendered within a specified time period and may or may not be binding on the Parties to the dispute. In some of the recent MEAs, the rules of procedure for arbitration are provided for in annexes, for example Annex VI of the Basel Convention and Annex II of the Biological Diversity Convention. Generally, arbitral tribunals are composed of three arbitrators, two of whom are appointed by the Parties to the dispute and the third designated by common agreement. CITES states that Parties may, by mutual consent, submit the dispute to arbitration, in particular that of the Permanent Court at the Hague and the Parties submitting the dispute shall be bound by this arbitral decision.

(v) Judicial settlement

Recourse to external, international tribunals is considered to be the final step in dispute settlement in environmental agreements as it generally involves a binding decision. In most cases, only if the process of negotiation, the use of "good offices" or mediation has failed do judicial procedures such as arbitration or submission of the dispute to the International Court of Justice (ICJ) become an option which Parties can use to resolve disputes. Most agreements recommend the referral of disputes to the ICJ, for example, the Montreal Protocol, Basel Convention, Convention on Climate Change and Convention on Biological Diversity. Although environmental agreements may provide for referral to the ICJ, in the MEAs examined, no Party is subject to compulsory dispute settlement without having explicitly agreed to it. Parties must submit a written declaration of their general willingness to enter into and be bound by judicial settlement and/or arbitration when disputes arise. In addition, the other Party to a dispute must also agree to the submission of the dispute to the same forum.

II. DISPUTE SETTLEMENT PROVISIONS IN SELECTED ENVIRONMENTAL AGREEMENTS

This section describes the procedures for dispute resolution in those MEAs listed in PC/SCTE/W/3 and TRE/W/10/Rev.1 for which provision is made for dispute settlement.

1. International Plant Protection Convention, 1951

If there is any dispute regarding the interpretation or application of the International Plant Protection Convention, or if a contracting Government considers that any action by another contracting Government is in conflict with the obligations of the Convention, especially regarding the basis of prohibiting or restricting the imports of plants or plant products coming from its territories, the Government(s) concerned may request the Director-General of FAO to appoint a committee to consider the question in dispute. The Director-General of FAO shall thereupon, after consultation with the Governments concerned, appoint a committee of experts which shall include representatives of those Governments. This committee shall consider the question in dispute, taking into account all documents and other forms of evidence submitted by the Governments concerned. The committee shall submit a report to the Director-General of FAO who shall transmit it to the Governments concerned, and to other contracting Governments. The recommendations of such a committee, while not binding in character, will become the basis for

renewed consideration by the Governments concerned of the matter out of which the disagreement arose.

2. Plant Protection Agreement for the South East Asia and Pacific Region, 1956

The Plant Protection Agreement for the South East Asia and Pacific Region provides that if there is any dispute regarding the interpretation or implementation of the Agreement, or regarding action taken by any contracting Government under the Agreement, and such dispute cannot be resolved by the Commission, the Government(s) concerned may request the Director-General of the Organization to appoint a committee of experts to consider such dispute (Article VII).

3. African Convention on the Conservation of Nature and Natural Resources, 1968

Any dispute between Contracting States relating to the interpretation or application of the African Convention on the Conservation of Nature and Natural Resources which cannot be settled by negotiation shall, at the request of any Party, be submitted to the Commission of Mediation, Conciliation and Arbitration of the Organisation of African Unity. Provisions for exceptions are contained in Article XVII, whereby Contracting States may enact measures contrary to the provisions of the Convention in case of paramount interest of the State, *force majeure*, defense of human life, time of famine, protection of public health and defence of property. They may do so provided their application is precisely defined in respect of aim, time and place.

4. European Convention on the Conservation of Nature and Natural Resources, 1968

In case of a dispute regarding the interpretation or application of the provisions of the European Convention on the Conservation of Nature and Natural Resources, the competent authorities of the Contracting Parties concerned shall consult with each other (Article 47). Each Party shall communicate to the Secretary-General of the Council of Europe the names and addresses of its competent authorities. If the dispute has not been settled by this means, it shall, at the request of one or other of the Parties to the dispute, be referred to arbitration. Each Party shall nominate an arbitrator and they in turn shall nominate a referee. If one of the two Parties to the dispute has not nominated its arbitrator within the three months following the request for arbitration, the arbitrator shall be nominated at the request of the other Party to the dispute by the President of the European Court of Human Rights. If the latter is a national of one of the Parties to the dispute, this duty shall be carried out by the Vice-President of the Court or, if the Vice-President is a national of one of the Parties to the dispute, by the most senior judge of the Court not being a national. The same procedure shall be observed if the arbitrators cannot agree on the choice of referee. The arbitration tribunal shall lay down its own procedure and its decisions shall be taken by majority vote and its award, which shall be based on the Convention, shall be final.

5. Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), 1973

Any dispute which arises between two or more Parties with respect to the interpretation or application of the provisions of CITES is subject to negotiation between the Parties involved in the dispute (Article XVIII). If the dispute cannot be resolved in this manner, the Parties may, by mutual consent, submit the dispute to arbitration, in particular that of the Permanent Court of Arbitration at the Hague. In this case, the Parties submitting the dispute shall be bound by that arbitral decision.

A resolution of the Conference of the Parties to CITES added a further recommendation concerning the settlement of disputes. It recommend that either the Secretariat or the Standing Committee are to mediate disputes if major problems with the implementation of the Convention arise. If such implementation problems are brought to the attention of the Secretariat, it shall work together with the Party concerned to try to solve the problem and offer advice or technical assistance as required. If it does not appear that a solution can be readily achieved, the Secretariat is to bring the matter to the attention of the Standing Committee which may pursue the matter in direct contact with the Party concerned with a view of helping to find a solution.

6. Convention on Conservation of North Pacific Fur Seals, 1976

Should any Party to the Convention on Conservation of North Pacific Fur Seals consider that the obligations of Article II (relating to research and annual reporting of information to the North Pacific Fur Seal Commission), or any other obligation undertaken by the Parties is not being carried out and notify the other Parties to that effect, all the Parties shall, within three months of the receipt of such notification, meet to consult together on the need for and nature of remedial measures (Article XIII). In the event that such consultation does not lead to agreement as to the need for and nature of remedial measures, any Party may give written notice to the other Parties of its intention to terminate the Convention and, notwithstanding the provisions of Article XIII (relating to termination of the Convention), the Convention shall thereupon terminate as to all the Parties nine months from the date of such notice.

7. ASEAN Agreement on the Conservation of Nature and Natural Resources, 1985

Any dispute between the Contracting Parties arising out of the interpretation or implementation of the ASEAN Agreement on the Conservation of Nature and Natural Resources shall be settled amicably by consultation or negotiation (Article 30).

8. Montreal Protocol on Substances that Deplete the Ozone Layer, 1987

The dispute settlement procedures of the Montreal Protocol, which are found in the Vienna Convention for the Protection of the Ozone Layer, have become the prototype for the recent elaboration of provisions through which to resolve disputes in MEAs. The Protocol's flexible, multi-track hierarchy of procedures allows a Party to select the procedural or institutional mechanism that best conforms to its interests. In the event of a dispute, Parties initiate a process of resolution through negotiation. Then they may jointly seek the good offices of, or request mediation by, a third party, followed by conciliation, arbitration or submission to the International Court of Justice.

The procedures for dispute settlement under the Montreal Protocol are provided in Article 11 of the Vienna Convention for the Protection of the Ozone Layer. In the event of a dispute between Parties concerning the interpretation or application of the Protocol, the Parties concerned are to seek solution by negotiation (Article 11.1). If the Parties concerned cannot reach agreement by negotiation, they may jointly seek the good offices of, or request mediation by a third party (Article 11.2). For those disputes not resolved in accordance with either Article 11.1 or 11.2, a Party may declare that it accepts one or both of the following means of dispute settlement as compulsory: (1) arbitration in accordance with procedures adopted by the Conference of the Parties at its first meeting; (2) submission of the dispute to the ICJ. However, if the Parties have not accepted the same or any procedure, the dispute shall be submitted to a conciliation commission which is created upon the request of one of the Parties to the dispute. This commission shall be composed of an equal number of members appointed by each Party

concerned and a chair chosen jointly by the members appointed by each Party. It shall render a final and recommendatory award, which the Parties shall consider in good faith.

In an attempt to strengthen procedures for non-compliance under the Protocol, in 1990 the Second Meeting of the Parties adopted non-compliance procedures in an annex to the Protocol (Annex III). These procedures establish an Implementation Committee consisting of five Parties elected by the Meeting of the Parties for two years, based on equitable geographical distribution. If one or more Parties have reservations regarding another Party's implementation of its obligations under the Protocol, those concerns may be addressed in writing to the Secretariat. Such a submission shall be supported by corroborating information. The Party whose implementation is at issue is to be given the submission and a reasonable opportunity to reply. Such reply and information in support thereof is to be submitted to the Secretariat and to the Parties involved. The Secretariat shall then transmit the submission, the reply and the information provided by the Parties to the Implementation Committee.

The functions of the Committee shall be to receive, consider and report on any submission made by one or more Parties and any information or observations forwarded by the Secretariat in connection with the preparation of the report referred to in Article 12 of the Protocol (distribution by the Secretariat of data reported by the Parties). It shall consider the submissions, information and observations with a view to securing an amicable resolution of the matter on the basis of respect for the provisions of the Protocol. The Committee shall report to the Meeting of the Parties. After receiving a report by the Committee the Parties may, taking into consideration the circumstances of the case, decide upon and call for steps to bring about full compliance with the Protocol, including measures to assist the Party's compliance and to further the Protocol's objectives.

The Parties involved in a matter shall inform, through the Secretariat, the Meeting of the Parties of the results of proceedings taken regarding possible non-compliance, about implementation of those results and about implementation of any decision of the Parties as stated above. The Meeting of the Parties may issue an interim call and/or recommendations. It may request the Committee to make recommendations to assist the Meeting's consideration of cases of possible non-compliance. The members of the Committee and any Party involved in its deliberations shall protect the confidentiality of information they receive in confidence.

9. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, 1989

In case of a dispute concerning the interpretation, application or compliance with the Basel Convention, Parties are to seek the settlement of the dispute through negotiation or any other peaceful means of their own choice (Article 20).

If this is unsuccessful and if the Parties to the dispute agree, the dispute is to be submitted to (1) the International Court of Justice or to (2) arbitration in accordance with the provisions outlined in a specific annex to the Convention on arbitration (Annex VI). Upon ratification, or at any time thereafter, a State may declare that it recognizes as compulsory and in relation to any Party accepting the same obligation, submission of the dispute to either the ICJ or arbitration. Failure to reach common agreement as to whether to submit the dispute to the ICJ or to arbitration does not absolve the Parties from the responsibility of continuing to seek resolution through negotiation.

The arbitration provisions of the Basel Convention are outlined in Articles 2-10 of Annex VI. Provision is made for an arbitral tribunal to be formed consisting of three members; each of

the Parties to the dispute appoint an arbitrator, and the two arbitrators then designate by common agreement the third arbitrator as the tribunal's chair. The Secretary-General of the United Nations is authorized to appoint a third arbitrator if there is no agreement between the Parties by a certain deadline. The tribunal is to draw up its own rules of procedure and render its decision in accordance with international law and with the provisions of the Convention. It may take all appropriate measures to establish the facts of the dispute and shall render a decision within a specified time limit. The award of the arbitral tribunal shall be accompanied by a statement of reasons and be final and binding on the Parties to the dispute.

10. United Nations Framework Convention on Climate Change, 1992

The Convention on Climate Change provides for the settlement of disputes in Article 14. Similar procedures to the Montreal Protocol are provided. In the event of a dispute between any two or more Parties concerning the interpretation or application of the Convention, the Parties concerned shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice. As is the case under the Montreal Protocol and the Basel Convention, Parties may make a written submission at any time as to whether they recognize as compulsory the submission of the dispute to the International Court of Justice, and/or arbitration in accordance with procedures to be adopted by the Conference of the Parties as soon as practicable, in an annex on arbitration. If Parties are unable to settle their dispute through the above means, the dispute is to be submitted, at the request of any of the Parties concerned to conciliation.

As is again the case in the Montreal Protocol and the Basel Convention, a conciliation commission is to be created upon the request of one of the Parties to the dispute, composed of an equal number of members appointed by each Party concerned who in turn jointly choose a chair. The commission is to render a recommendatory award, which the Parties shall consider in good faith. Any additional procedures relating to conciliation are to be adopted by the Conference of the Parties as soon as practicable, in an annex on conciliation.

In addition to further defining procedures for arbitration and conciliation, the Conference of the Parties is to resolve questions regarding implementation of the Convention at its First Session (Article 13). At this Session, Parties are to consider the establishment of a multilateral consultative process to deal with non-compliance. Progress towards a strengthened compliance mechanism will depend on the availability of financial resources for those Parties whose compliance is jeopardized by a lack of financial resources. Therefore, the Convention links the compliance of developing country Parties to the compliance of developed countries with their commitments to provide these resources. In this respect, financial assistance is recognized as a prerequisite for developing country compliance with the Convention.

11. Convention on Biological Diversity, 1992

The settlement of disputes under the Convention on Biological Diversity is provided for in Article 27. In the event of a dispute between Parties concerning the interpretation or application of the Convention, the Parties concerned shall seek a solution by negotiation. If they are unable thereby to reach agreement, they may jointly seek the good offices of, or request mediation by a third party.

At any time a Party may make a written declaration to the Convention's Depositary accepting a compulsory dispute resolution by arbitration, by the International Court of Justice or both, when negotiation or mediation have failed. Either of these judicial procedures is intended to lead to a binding decision. The procedures for arbitration are set out in Part 1 of Annex II. In the event of a conflict between two Parties, the arbitral provisions provide for the standard three

member panel, as described under the Montreal Protocol and the Basel Convention. If more Parties are involved, Parties "in the same interest" are to nominate a "common" arbitrator. If the dispute is taken to the ICJ, the Statutes of the ICJ determine the procedures.

If a Party does not accept either of the above-mentioned judicial procedures, or both Parties to the dispute have not accepted the same procedure, the dispute must be submitted to conciliation. Although the submission of the dispute to conciliation is an obligation, unless the Parties agree otherwise, it does not lead to a binding decision. The conciliation commission makes proposals for the resolution of the dispute which the Parties concerned must consider in good faith. The procedures for the five member conciliation commission are set out in Part 2 of Annex II. All the above-mentioned provisions apply to any protocol to the Convention, except as otherwise provided in the protocol concerned.

12. Oslo Protocol to the Convention on Long-range Transboundary Air Pollution on Further Reductions of Sulphur Emissions, 1994

The Oslo Protocol provides for the settlement of disputes in Article 9. In the event of a dispute between any two or more Parties concerning the interpretation or application of the Protocol, the Parties concerned are to seek a settlement of the dispute through negotiation, or any other peaceful means of their own choice. In addition, the Parties to the dispute are to inform the Executive Body of their dispute.

As in many of the above-mentioned agreements, a Party may at any time declare in a written instrument submitted to the Protocol's Depositary that it recognizes as compulsory, and in relation to any Party accepting the same obligation (1) submission of the dispute to the ICJ and/or (2) arbitration in accordance with procedures to be adopted by the Parties at a session of the Executive Body as soon as practicable, in an annex on arbitration.

Except in a case where the Parties to a dispute have accepted the same means of judicial dispute settlement as described above, if the Parties concerned have not been able to settle their dispute, it is to be submitted, at the request of any of the Parties concerned, to conciliation. A conciliation commission is to be created, composed of an equal number of members appointed by each Party concerned who then chose jointly a chair. The commission is to render a recommendatory award, which the Parties are to consider in good faith.

III. GENERAL OBSERVATIONS

Most environmental agreements contain a series of flexible, step-by-step procedures for the settlement of disputes which range from non-binding, consensus-building procedures to judicial settlement. However, countries are not obliged to submit a dispute to any process of binding, judicial resolution. Generally, the emphasis in environmental agreements has been on dispute avoidance through regular and frequent monitoring and reporting and non-confrontational and conciliatory dispute settlement. The main reason behind this relates to the nature of international cooperation in the field of the environment, which seeks to enhance cooperation between countries in view of scientific uncertainty and the general nature of commitments with which to achieve broad environmental objectives. At present, there has been a reluctance to invoke procedures for the formal resolution of disputes in MEAs, even though implementation and compliance has been less than complete.

There is no central international institution or tribunal with a clear mandate to consider environmental disputes or interpret international environmental law. However, the International

Court of Justice, the main international judicial forum and the principal judicial organ of the United Nations, does have the competence to adjudicate environmental disputes. In July 1993, the ICJ created a special seven member Chamber for Environmental Matters in order to deal with environmental disputes.

In recognition of the need to enhance the dispute settlement provisions in environmental agreements, proposals were made at the United Nations Conference on Environment and Development (UNCED) in June 1992 to render more effective the procedures for avoiding and settling potential environmental disputes. To this end, Agenda 21, the programme for action which came out of the UNCED process, outlines that:

> In the area of avoidance and settlement of disputes, States should further study and consider methods to broaden and made more effective the range of techniques available at present, taking into account, among others, relevant experience under existing international agreements, instruments or institutions and, where appropriate, their implementing mechanisms such as modalities for dispute avoidance and settlement. This may include mechanisms and procedures for the exchange of data and information, notification and consultation regarding situations that might lead to disputes with other States in the field of sustainable development and for effective peaceful means of dispute settlement in accordance with the Charter of the United Nations including, where appropriate, recourse to the International Court of Justice, and their inclusion in treaties relating to sustainable development. (Chapter 39, paragraph 9)