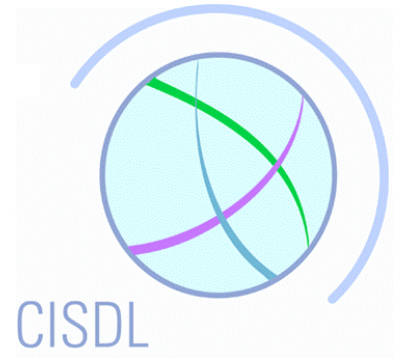


<b>CISDL Doc. #:</b> R1-QN-E	<b>Session:</b> Plenary Roundtable One
<b>Date &amp; Time:</b> 2002-06-13 14:00	<b>Speaker:</b> Questions and Discussion
<b>Rapporteur:</b> [Wilma Hovius]	<b>Language:</b> English



**Plenary Roundtable One:  
New Legal instruments for ISDL Monitoring &  
Compliance**  
June 13, 2002, Montreal

- 1) **Jeff Gerker, WTO, Geneva**
  - a) Addressed to Wang: How are those serving the facilitative and enforcement branch appointed? Who are they and what is the appointment process?
- 2) **Lional Herse from Antigua, Barbados**
  - a) Q: The Caribbean states are fighting against USA, UK, and Japan over an issue of grave importance for Caribbean states (regarding alternative sources of energy and the danger of nuclear energy)
  - b) The Caribbean is dealing with extremely powerful nations, and this is why they are unable to deal effectively with their needs
- 3) **Michael Kerr, Australia**
  - a) Are there steps to improve compliance mechanisms of the biodiversity convention?
- 4) **Michelle Jaquard, environmental legal services**
  - a) Q (Trade and environment): What are your thoughts regarding the idea that we need a more systematic use of dispute settlement mechanisms within MEAs. These mechanisms have not been used much. Why is this and what is their potential?
- 5) **Dimitrov, exequatur U in England**
  - a) Burden sharing: Regarding the Montreal convention and Kyoto, how should we judge the Rhine Convention, where all the riparian states fund and cure the damages that have occurred along the Rhine. Can you imagine this as a model for the Montreal/Kyoto conventions
- 6) **Caroline ?, from Geneva**
  - a) Q: we know that since the Doha ministerial meeting, there has been a relatively large amount of funding available for technical assistance to promote compliance with WTO rules, which do not necessarily promote SD. How can we draw on ISDL to ensure that SD promotion can be included?

#### Responses

- 7) **Carmichael**
  - a) The problem is grave but maybe has a promising, though distant solution
  - b) When nuclear energy was developed, the developers were subject to a variety of geopolitical considerations. It is ironic that those with the largest amounts of nuclear energy recognized the inherent dangers of transport and misuse. Obviously in the Japan case, there was much naivety, and we were living in an era where everyone thought we could do things covertly
  - c) The horrific events of September 11 have also highlighted to the main users and producers of nuclear energy that there is an additional problem: terrorism
  - d) We must continue to find and research alternative energy resources in a consistent and continuing manner to find a solution. This is a long problem that will not be solved immediately.
- 8) **Bankobeza**
  - a) Regarding why MEA dispute mechanisms have not been used
    - i) Treaty: The dispute settlement provisions of Mesa. There have not been any issues to address. This is why they have not been used.
    - ii) Trade provisions are not conventionally discriminatory.
    - iii) MEA trade provisions are based on article 20 of GATT which is an exception to trade issues relating to environment in general.
    - iv) It has not happened so far because of the exception provided for under article 20 of the GATT
  - b) Regarding capacity building and compliance for WTO rules
    - i) Suggestion on how to approach this matter: to ensure WTO compliance of trade rules
    - ii) The WTO, together with MEAs, is conducting rigorous seminars to see how the WTO can work together with MEAs to promote rule compliance
    - iii) There must be a promotion of compliance of the rules together, not one against the other. Compliance with WTO rules must also promote compliance with environmental regulations

- a) Re: facilitative/enforcement branch
  - i) There are five members: two from developed countries, two from developing countries, and one small state. The members act in a personal capacity
- b) Re: compliance mechanism of biodiversity convention
  - i) Under the CBD, obligations are of a general nature. There is no actual compliance mechanism, although there is a reporting mechanism.
- c) Re: Sharing and Kyoto protocol

On the one hand, developed countries must take the initiative regarding climate change. As developing countries are not the original polluters, they have more general obligations.