Reporting and Information Systems in International Environmental Agreements as a Means for Dispute Prevention – The Role of “International Institutions”

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Abstract. Since the first United Nations Conference on the Human Environment in 1972 the number of international environmental agreements has increased steadily. These treaties not only provide for rules concerning the environment, but also establish institutions that have the function to promote the implementation of the agreement in question. The increase in international environmental agreements raised questions concerning the implementation of and the compliance with these rules. In this context suggestions were made to elaborate mechanisms and procedures which would further implementation and compliance and thus also would prevent disputes between Parties to international environmental agreements. Reporting and information systems have become a standard element of international environmental agreements. Although there are various reasons for development it has to be acknowledged that reporting and information systems have been an important means in encouraging implementation of and compliance with international environmental agreements. But certain difficulties should not be overlooked such as the burden reporting puts on parties. In particular, the increase of reporting obligations due to the growth of international and regional environmental agreements might be a drain on a country’s limited resources. Harmonisation and streamlining reporting requirements under various environmental agreements might help to overcome some of the difficulties experienced by parties. On the other hand, reporting provisions have helped to increase transparency. A broader public is informed about national measures taken in implementation of international regulations by parties as well as on their effectiveness to address environmental issues. Moreover, discussion of the reports or synthesis reports prepared by secretariats in meetings of parties, such as the Conference of the Parties, draw the attention to shortcomings in implementation and compliance.

Keywords: environmental agreements, implementation, compliance, reporting, transparency, dispute resolution, Rio Declaration

I. Introduction

Since the first United Nations Conference on the Human Environment in 1972 the number of international environmental agreements has increased steadily. These treaties not only provide for rules concerning the environment, but also establish institutions1 that have the function to promote the implementation of the agreement in

1 In general international environmental agreements establish a number of institutions, such as Conference of the Parties and secretariats, but do not establish international organisations. The legal implications have been discussed in practice and academia. See Robin R. Churchill/Ger Ulfstein, Autonomous Institutional Arrangements in Multilateral Environmental Agreements. A Little Noticed Phenomenon in International Law, 94 AJIL (2000), 623 ff.; Gerhard Loibl, The Proliferation of International Institutions dealing with International Environmental Matters, in: Niels M. Blokker/Henry G. Schermers, Proliferation of International Organisations – Legal Issues (2001), 151 ff.
question. The increase in international environmental agreements raised questions concerning the implementation of and the compliance with these rules. In this context suggestions were made to elaborate mechanisms and procedures which would further implementation and compliance and thus also would prevent disputes between Parties to international environmental agreements. All these proposals were based on the idea that international institutions, such as the Conference of the Parties or Implementation Committees, would play a central role in monitoring, reviewing and furthering implementation and compliance by the Parties to international environmental agreements.

During the meetings of the Preparatory Committee leading to the United Nations Conference on Environment and Development 1992 (UNCED) proposals were to address issues on dispute prevention and dispute settlement concerning the environment. These questions raised considerable controversy in the working sessions of the Preparatory Committee concerning legal and institutional issues.

The documents finally adopted by UNCED dealt with these questions in various manners. Principle 26 of the Rio Declaration on Environment and Development addressed the settlement of disputes concerning the environment in a manner similar to the relevant provisions of the United Nations Charter, but did not mention the question of dispute prevention. It reads as follows:

States shall resolve all their environmental disputes peacefully and by appropriate means in accordance with the Charter of the United Nations.

In contrast to the Rio Declaration Agenda 21 referred in Chapter 39 – entitled “international legal instruments and mechanisms” – to the question of “dispute avoidance”. It states that one of its objectives is to study and consider the broadening and strengthening of the capacity of mechanisms, inter alia, in the United Nations system, to facilitate, where appropriate and agreed by the parties concerned, the identification, avoidance and settlement of international disputes in the field of sustainable development, duly taking into account existing bilateral and multilateral agreements for the settlement of such disputes.

Furthermore, one of the four activities listed in this Chapter is entitled “disputes in the field of sustainable development”. It reads as follows:

In the area of avoidance and settlement of disputes, States should further study and consider methods to broaden and make more effective the range of techniques available at present, taking into account, amount others, relevant experience under existing international agreements, instruments or institutions and, where appropriate, their implementing 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.


Cf. during the negotiations the term “dispute prevention” was replace by the term “dispute avoidance”. Cf. on this question e.g. Österreichische außenpolitische Dokumentation 1993, Sondernummer, “UN-Green Helmets – A Model System for the Settlement and Prevention of Environmental Disputes”.

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