

**GOVERNANCE WITH MULTILATERAL  
ENVIRONMENTAL AGREEMENTS:  
A HEALTHY OR ILL-EQUIPPED FRAGMENTATION?**

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**Introduction**

This chapter focuses on multilateral environmental agreements (MEAs). Unlike other international policy fields such as trade, labor or health, where international institutions are streamlined, environmental problem solving is centered around a multiple number of multilateral environmental agreements (MEAs) and their institutions (secretariat and conference of the parties). Although existing environmental institutions such as MEAs and UNEP have achieved a great deal and reduced the speed with which environmental degradation is proceeding, there still are a number of pressing environmental problems prevailing throughout the world, including air and water pollution, the loss of biological diversity, desertification and climate change. Furthermore, accelerated globalization has caused cross border environmental problems to increase. Challenges of environmental governance are huge and still growing. What is necessary to improve the system and make it more effective? Could we head for a more effective environmental governance system based on MEAs on the road ahead, or do we need to change direction towards a more streamlined problem solving system?

Questions in the following three areas are considered below:

1. The first set of questions is about the MEA system itself. What is the MEA system? How and why did it come about? Why are there so many independent multilateral agreements in the field of environment and what are the related problems?

2. The second deals with the performance of the MEA system. What are its strengths and weaknesses? Although evaluating the performance of institutions involves many methodological issues which could lead to an interesting academic debate, this chapter will not delve into this.
3. What reforms are required, what are the options? How large is the gap between needed reform and the current political will? What could narrow this gap?

### **1. The MEA System – Why are there so Many Agreements and what are the Related Problems?**

In this chapter, the definition used for a multilateral environmental agreement is “an intergovernmental document intended as legally binding with a primary stated purpose of preventing or managing human impacts on natural resources.”<sup>1</sup> Varying methodologies used for counting MEAs have resulted in different numbers, but many researchers and analysts agree that there is a proliferation of MEAs, constituting a key characteristic of the existing environmental governance system. In the IEA database, 405 agreements and 152 protocols have been identified, modified by 236 amendments bringing the total to 794 MEAs that came into existence between 1875 and 2005; although many of these are now defunct.<sup>2</sup> The Ecolex project sponsored by UNEP, FAO and IUCN recognizes in total 519 environmental treaties.<sup>3</sup> Other research identifies more than 500 MEAs registered with the UN, including 61 on atmosphere, 155 on biodiversity, 179 on chemicals, hazardous substances and waste, 46 land conventions, and 197 on water issues.<sup>4</sup>

This apparent disjointed approach to the current form of environmental governance can largely be attributed to two factors. One is the historical development of environmental institutions, and the second is the very nature and complexity of environmental problems.

#### *Historical Development*

When the institutionalization of international environmental policy-making really began in 1972, the issues focused mainly on the conservation and management of natural resources, both living and non-living. No one could have predicted, or even imagined at that time, the severity or variety of problems that would arise by the Twenty First Century, including such previously unrecognized threats as stratospheric ozone depletion and the trade in hazardous wastes. The manner in which environmental institutions have developed in response to these problems

has largely been *ad hoc* and fragmented. Unlike the post-war financial and commercial regimes, which have been organized around a small number of formal institutions with fairly clearly demarcated norms and rules, environmental governance has evolved incrementally over the last 35 years, and now encompasses a wide array of international institutions, laws, and regimes. Collectively, these institutions serve as a reflection of the muddled hierarchy of real-world issues that compete for global attention. Apart from the multitude of MEAs and a plethora of international organizations, doing the best they can to respond to environmental challenges that range from climate change to persistent organic pollutants, new planning doctrines have emerged concerning critical loads, integrated assessment, and public participation and are being applied to multilateral management efforts. More importantly, environmental issues are now viewed within the framework of sustainable development.

The concept of Sustainable Development calls for simultaneous and concerted efforts to deal with pollution, economic development, unequal distribution of economic resources, and poverty reduction. It contends that most social ills are non-decomposable, and that environmental degradation cannot be addressed without confronting those human activities that give rise to it. Sustainable Development dramatically expanded the international agenda by stressing that these issues need to be simultaneously addressed and that policies should seek to focus on the interactive effects between them. One of the sources of the current debate on environmental governance reform stems from the gap between the historical development of environmental institutions and the new institutional requirements posed by the transition from mere environmental protection to sustainable development. MEAs are, of course, no exception in facing these challenges.

The core of the new sustainable development agenda reflects new thinking among the environmental and the developmental communities about the linkages between key issues on the international agenda.<sup>5</sup> Some critics contend that this new agenda threatens to divert attention from the fundamental goals of fighting poverty, reducing military expenditure, increasing respect for human rights, and promoting democracy. Conversely, though, the broad agenda offers the prospect of strategic linkages between small policy networks in the international environmental and developmental communities which previously lacked sufficient autonomous influence to be able to shape agendas or policies. In this sense, the new agenda of sustainable development provides opportunities as well.

Sustainable development has two core components. The first is *substantive*, as discussed above, stressing the need for an integrative approach to economic development that includes environmental protection along with other goals of growth, social equity, and, according to some advocates, democratization. Accordingly, the MEA system, which has evolved incrementally on a somewhat ad-hoc basis over the last 35 years in a rather narrow-scoped issue specific manner, is now facing a new challenge that requires adjustments. The second is *procedural*. Sustainable Development and Agenda 21 call for a radically broader participation in decision making. Sustainable development is no longer the pure domain of national sovereignty. Agenda 21 calls for multiple stakeholder participation, or “major groups,” at multiple levels of international discussions, including NGOs, scientists, business/industry, farmers, workers/trade unions, local authorities, as well as indigenous people, women, and youth and children. The MEA system is also facing these substantive and procedural challenges.

#### *Issue Complexity*

One of the major reasons for utilizing the MEA approach to environmental problems arises from the very nature and complexity of the problems. Environmental processes are governed by laws of nature that are not susceptible to conventional bargaining within the domestic or international policy making processes. Environmental policy makers have to struggle, from the outset, with the issue of “scientific uncertainty” as well as the incompatibilities between the ethical and political ramifications of the precautionary principle. In many ways, the current international legislative environment is not conducive to the development of coordinated, or synergistic, approaches to collective environmental – and sustainable development - problem solving. Particular international agreements are often negotiated by way of “specific” regimes that are considered in relative isolation. Each agreement is tackled, more or less, by artificially decomposing the causative complexities involved for the sake of practical “manageability.” Agreements are negotiated by specialized ministries, or functional organizations, within forums that are detached from the negotiating arenas of other international agreements. Furthermore, the process of consensus building within the context of non-cooperative attitudes, which are characteristic of global multilateral treaty-making, involves a great deal of ad-hoc log rolling. This, all too often, obscures the interconnectedness of the goals to be shared among different issue-specific regimes. The treaty making process is also extremely time-consuming. It typically takes over a decade to advance

from the agenda setting stage, *via* a framework agreement, to the negotiation of the first operational protocol for collective action. Even after reaching agreement, ratification of the protocol requires governments to create consensus at the domestic level. In case a government turns out to be unwilling to ratify the protocol - thus politically increasing scientific uncertainty again - there always remains the possibility that the whole negotiation process can unexpectedly be brought back to an earlier stage, causing considerable time delays.

To date, international environmental policy-making has generally been segregated on the basis of topic, sector, or territory. The result is the negotiation of treaties that often overlap and conflict with one another. This engenders unnecessary complications at the national level as signatories struggle to meet their reporting obligations under multiple agreements. At the international level, some coordination exists between environmental institutions through mechanisms such as the *Inter-agency Coordination Committee* and the *Commission for Sustainable Development*, but these institutions are far too weak to effectively coordinate MEAs, and to integrate the various dimensions of sustainable development. These mechanisms seem to function more as a *pooling regime* than as an effective *coordination regime*.

And yet there is progress. Describing the difficulty of the endeavour should still not blind us, as analysts, to the fact that amazing accomplishments have been achieved multilaterally over the last 30 years. Most governments created environmental agencies, and, since 1992, units responsible for sustainable development. Public expenditures on environmental protection and sustainable development in the advanced industrialized countries now routinely run between 2-3% of their GNP. The market for pollution control technology is conservatively estimated at 600 billion dollars per year, and this market did not even exist in 1972. It was created as a result of governments adopting policies in order to achieve environmental protection and sustainable development. As mentioned above, hundreds of MEAs have been adopted. Many of these MEAs have actually been effective at improving the environment by inducing states to change policies in a manner conducive to a cleaner environment. Stratospheric ozone pollution has been reduced. European acid rain is greatly reduced. Oil spills in the oceans are down in number and volume. Considering the pace with which economies have grown in the last 30 years, these should be recognized as considerable accomplishments. But the challenge still remains to do better, and to progress from environmental protection to sustainable development.

It is generally recognized that certain inherent links exist between human activities and the natural environment on which they depend. We know, for example, that there are a number of different gases that all lead to climate change, acid rain, and ozone loss. Similarly, we recognize that the climate, forests, oceans, wetlands, and diverse bio-systems are naturally co-dependent within the global ecosystem. The multilateral approach to these issues still remains fragmented, however, in terms of methods and mechanisms of scientific assessment and the development of consensual knowledge. This is also the case in regard to human capacity building and the art of interfacing domestic, regional, and international policy. At present, it is unlikely that the tendency to simply piggyback new institutions on existing ones will provide a coherent holistic approach to the governance of global sustainable development.

The debates on sustainable development and institutional reforms to improve its prospects will surely continue for the foreseeable future. It is now widely recognized and appreciated that the principal characteristic of international issues is their complexity. Yet, traditionally international institutions have been designed according to an organizational logic that addresses problems individually. Sustainable development requires a reorientation of collective understanding and of formal institutions to focus on the key intersecting and interacting elements of complex problems.

## **2. How Well does the MEA System Perform? What are the Strengths and Weaknesses of the MEA system?**

The present international environmental governance system is organized around UNEP which was established in 1973. But, over the years, many other organizations have acquired environmental responsibilities, including the World Bank, the IPCC, the UNCSD, the GEF and MEA secretariats as well as numerous non-state actors. Widespread frustration is often expressed about the inflexible and inelastic operation of the current environmental governance system. Those with insufficient information tend to dismiss the ability of this patchwork quilt of governance arrangements to effectively govern, because of the failings of some of its more visible elements. However, to best understand and evaluate the existing system, one must recognize that it consists of a governance system of many interconnected and interactive elements. Nonetheless, one still must acknowledge that environmental treaty making has often been segregated on the basis of topic, sector or territory, and the result has sometimes been overlapping and conflicting negotiation

processes. It is also the case that the implementation of one treaty can impede on the principle of another. In such cases, conflicting principles should be investigated, analyzed and revised to achieve a more effective system of environmental governance.

Still, the current environmental governance system also has advantages. Issue specific regimes have achieved a relatively high level of performance in a wide range of dimensions. As pointed out earlier, the environmental quality of many regional seas has been stabilized, if not improved. We know that depletion of the Ozone layer and acid rain in Europe have been reduced. The Convention on International Trade in Endangered Species (CITES) has induced behavioral change by focusing on trade. Scientific understandings of climate change and its solutions have also improved dramatically as a consequence of the performance of UNFCCC and IPCC. Norms have changed to take into account environmental consideration, as we can tell from the frequent use of the term “sustainable development” in speeches and news articles. Studies on the effectiveness of environmental institutions suggest that these institutions do matter in improving the human environment.

In the face of sustained economic growth, these achievements in the last three to four decades are considerable. In addition, research and analysis have shown that the current diffused MEA system has provided at least the following strengths or advantages:

- Current research on institutions has shown that the best institutional design for managing complex problems such as the global environment is a loose, decentralized and dense network of institutions and actors that are able to relay information and provide *sufficient redundancies* in the performance of functions so that *inactivity of one institution does not jeopardize the entire system*.<sup>6</sup>
- *Multiple forums allow multiple opportunities for multiple actors to hold discussions and to take action.* This increases the visibility of environmental governance and results in norm diffusion.
- A basic principle of the MEA system is to establish one problem solving rule centered around one MEA. *Specialization* makes it possible to create a tailor made solution. It is also easier for the public to understand.
- Multiple MEAs and their specific rules of governance *provide civil society with more windows of opportunity for participation in the global debate*.<sup>7</sup> This is actually a very important point in realizing sustainable development in procedural terms.

- A diffused MEA system provides secretariats with *opportunities and flexibility for self innovation*. It also allows a certain degree of freedom for secretariats to cooperate with agencies dealing with issues other than the environment, where such opportunities exist. Even competition over limited resources often creates positive effects as it encourages the secretariats and other agents to continuously assess their mandates and improve their performances and competencies. Some analysts also see positive effects when host countries of MEA secretariats inject stronger political will in a particular issue (*ownership*).

There are, however, also weaknesses in the current MEA system. In fact, many proponents of environmental governance reform emphasize the shortcomings of the current system, as a coordinated and synergistic approach to solving common problems is lacking. They further argue that inconsistencies in rules and objectives among a large number of MEAs lead to unnecessary duplication. Many analysts have identified the following, greatly inter-connected, problems of MEAs.<sup>8</sup>

- As pointed out earlier, it is reported that there are more than 500 MEAs registered with the UN.<sup>9</sup> Many of these are regional in scope or nested within a hierarchical structure of agreements, and a large number are actually defunct, but nonetheless the majority of these operate at the global level. The proliferation of MEAs, with little authority to coordinate activities, leads to *treaty congestion* as well as institutional and policy *incoherence, confusion and duplication of work*. *Redundancy leads to inefficiency*. However, the rate with which new conventions have emerged has been decreasing since the late 1990s, which is sometimes described as a result of “negotiation fatigue.”<sup>10</sup>
- MEA secretariats tend to develop an institutional interest in expanding their work, which may result in *man-made institutional barriers and may enhance vested interests* over time. In its report entitled “Delivering as One,” the *Secretary General’s High-level Panel on UN System-wide Coherence in the Areas of Development, Humanitarian Assistance, and the Environment* also cautioned that fragmentation in environmental governance does not offer an operational framework to address global issues. Illustrating this point, the panel refers to the slight impact more than 20 UN organizations engaged in water and energy issues have been able to make.
- In some cases, MEAs have *conflicting or duplicating agendas*. An often

cited example are the conflicting signals sent by the Montreal Protocol for Ozone layer protection and the Kyoto Protocol for climate change: although the former proposes HFCs as an alternative to CFCs, the latter considers both gases as greenhouse gases that need to be reduced. Such a conflicting/duplicating agenda is partially due to the nature of multilateral rule-making. Each new negotiation process typically starts with different policy-makers and stakeholders who do not have the same institutional and policy-oriented concerns that were present in earlier negotiations on related issues. They often start from scratch and are influenced by their own particular political dynamics. In addition, they tend to end up with ambiguous wording as a result of concessions made in the process of reaching consensus.

- *The proliferation of MEAs increases administrative and institutional costs for member states, because it leads to an increased number of meetings, international negotiations and reporting.* A survey conducted for the aforementioned report “Delivering as One” revealed that the three Rio conventions (climate change, biodiversity and desertification) have up to 230 meeting days annually. It also points out that adding the figures for seven other major global environmental agreements raises the number to almost 400 days. *The increasing administrative and travel costs are especially burdensome for developing countries, reducing their participation.*
- *The geographically dispersed locations of MEA secretariats may cause MEAs to be reluctant to hold more substantive and frequent coordinating meetings because of travel costs.* To overcome this problem, clustering of MEA secretariats based on issues, themes, functions or geographical focus have been repeatedly discussed.
- *Due to the costs related to attending meetings worldwide, developing countries tend to be less willing to engage in additional agreements.*

Coordination problems also are apparent in the interaction between science and policy. As environmental policy relies deeply on scientific knowledge, the science-policy interface is key to solving environmental problems. A lot of good scientific information from sources such as the IPCC, the Millennium Ecosystem Assessment and UNEP’s Global Environmental Outlook is available to us. What is lacking is not good information, but a synthesis of the information. In the current situation, multiple sources of information are gathered in multiple ways and relayed

to the stakeholders by multiple paths. Such disparate information does not allow for easy integration into in the decision-making processes for sustainable development.

Generally speaking, the larger the number of MEAs, the more frequently they need to interact with each other. A MEA frequently influences the development and effectiveness of other MEAs, and in return, it is also influenced by other policy instruments. While the effects of such inter-linkages could either be positive (synergistic) or negative (disruptive), recent study has shown that the MEA system creates more synergistic effects of inter-linkages than disruptive effects and that “institutional interaction may not primarily be a bad thing that ought to be diminished as much as possible.”<sup>11</sup> According to Oberthur and Gehring, institutional interaction led to synergy and improved the institutional effectiveness in more than 60 per cent of their sample of 163 cases of institutional interaction in international and European environmental policy.<sup>12</sup> Of course, this does not mean that one can dismiss the 25% of cases where disruption does take place. The accumulative impact of disruption is also not clear. Reducing disruptive inter-linkages and weaknesses, while enhancing synergistic inter-linkages and strengths within the current MEA system, is the way forward towards reform of environmental governance, as discussed in the next section.

### **3. What are the Reform Options?**

Over the years, many reform proposals have been circulated.<sup>13</sup> UNEP pursued internal efforts at streamlining its activities and achieving synergies amongst its various projects in its 1990 System Wide Medium Term Environmental Program (SWMTEP). The 1997 Task Force on Environment and Human Settlements, established by UN Secretary-General Kofi Annan, suggested strengthening UNEP by elevating it to a Specialized Agency (and thus entitling it to a fixed and regular budget) and improving its ability to coordinate activities with other specialized agencies, although no clear guidelines were given on how such coordination was to be achieved in the absence of strong political will by member states or the heads of the agencies. This prompted the Task Force to make the recommendation that an “issue management” approach be set up within the UN to address issues that cut across the mandates of specific institutions concerned with environment and sustainable development, such as UNEP and UNDP, and to some extent MEAs. Subsequently, the High-level Advisory Board on Sustainable Development was discontinued and supplemented by the establishment

of the Environment Management Group (EMG – see Appendix I), chaired by the Executive Director of UNEP.<sup>14</sup> The EMG was formed to assist in the coordination of activities between UNEP, UNDP and other UN agencies, Funds and Programmes and MEA secretariats, and “adopt a problem-solving, results-oriented approach that would enable United Nations bodies and their partners to share information, consult on proposed new initiatives and contribute to a planning framework and develop agreed priorities and their respective roles in the implementation of those priorities in order to achieve a more rational and cost-effective use of their resources.”<sup>15</sup> However, to date, its coordination functions are not very effective because: 1) there has been little high-level engagement in its work, 2) the negative perception of EMG as UNEP’s tool to assert control over the work of other agencies, and 3) lack of a clear sense of outcomes.<sup>16</sup> A revitalized UNEP has also been supported by UNEP’s 1997 Nairobi Declaration on the Role and Mandate of the United Nations Environment Programme.<sup>17</sup>

More far-reaching proposals have called for the creation of a new World Environmental Organization (WEO) or Global Environmental Organization (GEO) which would possibly replace UNEP, and be endowed with stronger and more centralized resources and influence. The proponents calling for the creation of a centralized WEO/GEO assign it many of the responsibilities currently distributed throughout the UN system.<sup>18</sup> It would be responsible for articulating environmental and sustainable development policies for the international community, and have resources to verify compliance and enforce sanctions on those in non-compliance. Such a WEO/GEO might even have the legal authority and staff to advocate for the environment in WTO trade and arbitration panels, or claim authority to adjudicate such disputes on its own. In addition, it would consolidate the vast array of MEAs (or environmental regimes) in one place, supplementing weaknesses of the current system by easing the administrative burden on governments trying to keep up with the vast array of international environmental obligations, as well as bolstering the political influence of environmental officials within their own governments because they would be collectively housed in a centralized environmental embassy. Such a WEO/GEO initially received a favorable reception from Brazil, Germany, Singapore and South Africa. However, the proposal has met with institutional resistance from institutions that would lose responsibilities, and with disinterest by much of the UN community.

A hybrid version of a WEO/GEO combined with a more streamlined UNEP has also received recent attention to encourage “a new

governance approach” based on partially decoupled links amongst formal institutional bodies.<sup>19</sup> Some redistribution of authority would occur, as a WEO/GEO would be established to develop policy, to coordinate the MEAs, and to counterbalance the WTO. The WEO/GEO would work loosely with other international institutions and promote non-state participation, while pursuing possible synergies between MEAs and their institutions. UNEP would continue to coordinate international environmental science management.

Various visionary schemes have also been proposed. The Club of Rome and others have suggested transforming the Trusteeship Council into an Environmental or Sustainable Development body. In 1992, Gus Speth raised the prospect of a massive North-South bargain for sustainable development.<sup>20</sup> Mahbub Ul Haq’s proposed focus on human security offers a similar grand systemic focus that would reorganize all institutional efforts.<sup>21</sup>

The preparatory process for the 2002 WSSD clearly demonstrated the extent to which many governments were willing to undertake extensive institutional reforms. The WSSD process also reaffirmed the importance of MEAs, and the need to keep them intact from WTO challenges. The February 2002 Cartagena meeting resulted in a decision on International Environmental Governance that made it clear that governments wished to retain UNEP as the centre of the governance system, around which other efforts would revolve.<sup>22</sup> This meeting concluded a series of six often wishy-washy preparatory meetings held at the Ministerial Level by the Intergovernmental Group of Ministers.<sup>23</sup> The Cartagena decision (see Appendix V) suggested that “the process (of institutional reform) should be evolutionary in nature....A prudent approach to institutional change is required, with preference given to making better use of existing structures.” Moreover, the Ministers proposed:

- Sustainable development requires better coordination between ministries at the national level.
- The increasing complexity and impact of trends in environmental degradation require an enhanced capacity for scientific assessment and monitoring and for provision of early warnings to governments.
- Environmental policy at all levels should be tied to sustainable development policies.

- NGOs, civil society, and the private sector should be involved more extensively with all areas of decision making within and between governments.
- LDCs should be treated “on the basis of common but differentiated responsibility.”<sup>24</sup>
- Capacity building and technology transfer are vital elements of governance.
- Retain UNEP/Nairobi as a meeting centre.
- Strengthen UNEP with regular financing – elevate to UN specialized agency with “predictable” funding.
- The clustering approach of MEAs should be considered.

The Global Ministerial Environment Forum (GMEF) was established to be the cornerstone of the international institutional structure of international governance of the environment and sustainable development. Since its first meeting in 2000, national environmental ministers have met to discuss high-level policy issues, coinciding with UNEP’s governing council meetings. Although the GMEF premise remains vague, and its specific architecture remains to be seen, many consider the GMEF to have the potential to become a more effective forum for high-level policy interaction amongst environmental ministers, non-state actors, and between environmental ministers and ministers from non-environmental sectors.<sup>25</sup> At the very least, the GMEF needs to clarify its primary mission, its relationships with the Conference of State Parties of the MEAs, and whether it should have its own permanent secretariat and where it should meet.

### **Political Analysis of the Five Years since the Johannesburg Summit and the Potential for Reform**

While ongoing pressures for institutional reform are likely to come from NGOs and an internationally organized academic network,<sup>26</sup> the political momentum for multilateral institutional reform for Sustainable Development is obviously less evident in the post-Johannesburg period when compared to the early 1990s. The negotiation on Chapter Ten of the Johannesburg Summit Plan of Implementation on institutions for sustainable development showed that there exists a will in the international community to discuss sustainable development institutions, but little political will to actually move forward. In fact, around ten paragraphs in Chapter Ten had to be deleted at the end of the negotiation

in Johannesburg for lack of agreement. To create a new international governance system supporting Sustainable Development would, at minimum, require the agreement of the major industrialized countries whose economic activities do the most harm to the global environment and whose financial resources would be needed to overcome the development losses that might otherwise be suffered by the newly emerged manufacturing giants and the states waiting to follow them into the industrial world.

The United States, in particular, has recently tended to impede efforts to strengthen or deepen multilateral governance in almost all realms. The Bush administration has clearly signaled a retreat from multilateralism, as well as a profound disinterest in multilateral environmental governance and sustainable development. While domestic groups of academics and NGOs may support sustainable development reforms, the overall administration is uninterested. The EU seems supportive of the idea of sustainable development, although it has not been able to pass a carbon tax or adopt measures which entail significant economic costs for its member states. G8 Summits have adopted declarations endorsing sustainable development, although they could be stronger. The Gleneagles Summit took the important step of inviting some of the leaders from key developing countries. The collective purpose of the industrialized countries is currently mobilized behind combating terrorism rather than promoting sustainable development, and there is some degree of institutional fatigue. The Netherlands and Scandinavia continue to support reforms. Domestic progressive elements within Canada and Italy may support multilateral institutional reform and sustainable development, but they are too small a coalition to sway the industrialized bloc. Germany and France are strong advocates of institutional reform and the establishment of a World Environmental Organization. Japan remains supportive in principle, but its primary interests in the UN reform agenda is that of the UN Security Council rather than over social and economic institutions.

The developing world remains suspicious of some of the policy goals pursued by the industrialized world, and are adamantly opposed to any reforms that would entail the movement of the headquarters of the principal international environmental institution, now in Nairobi, away from a developing country.

### **Towards Constructive Reform**

Much progress has been made in the international environmental policy arena since Stockholm. The system remains fragile, however, and requires continuing support to bolster its many policy networks and to maintain the pressure on governments for sustained environmental protection. The current political situation does not seem conducive to far-reaching reform efforts. Indeed, the enemy of the good is the great. Given the strengths and weaknesses of the current environmental governance system centered around MEAs, and of limited political will within the next five years or so, I suggest that some streamlining of the international governance system may be the most politically tractable option for bolstering effectiveness of governance in the environmental and sustainable development arenas. For example, the Kyoto Protocol's first commitment period expires in 2012 and the negotiations on its follow-up will have to be concluded before 2012. The negotiations are likely to focus on climate change but may also provide a rare opportunity to review and streamline environmental governance.

Reform of the international governance structures needs to address the major functions of global governance while providing for the participation of all the principal actors involved at the global level. Financing remains problematic and further research is necessary on the international division of labor in terms of who performs which functions most effectively. For example, international organizations, MEA-related committees and governments which have ratified MEAs have provided monitoring functions, but informally, this is also a role for scientists and grassroots NGOs. Rule making, including sponsoring negotiations, is the function that national delegates to negotiation officially play, but NGOs can also participate in the process by providing principled positions (such as the precautionary principle). Business and industry also make rules by providing *de facto* standards.

According to current organizational thinking, decentralized information-rich systems are the best design for addressing highly complex and tightly interwoven problem.<sup>27</sup> Thus, international governance for sustainable development may be best served through a decentralized architecture coordinated by a sophisticated hub that is capable of quickly accessing usable information and transmitting it to the appropriate institutional nodes in the network. As discussed above, redundancy and efficiency turn out to be strengths in such decentralized systems. Redundancy amplifies the political influence of policy networks involved in governance, and also assures that the governance system

persists even if one of the nodes suffers political setbacks. Redundancy in funding sources may also compensate for tentative shortfalls in financing from principal funding sources. Similarly, efficiency is a principle that obscures the symbiotic influences between the elements of the network. Decentralized systems do not cede full autonomy to states or markets: rather they seek to engage states and markets with actors and policy networks that are sensitive to possible abuses of unfettered free markets.

MEAs should be placed in such a decentralized and densely networked system, and reform options for more effective environmental governance should be considered in such a context. The strengths of the MEA system, mostly the same as the very strengths of a decentralized system, should be preserved and further enhanced, while weaknesses should be resolved. When there is not sufficient political momentum for environmental governance reform to fully develop, seeds for reform should be cultivated where relevant so that when the right time arrives, the necessary growth can more easily take place.

The biggest weakness of the current governance system is lack of coordination. UNEP ought to play the central role in coordination, but UNEP's responsibilities have not been matched by adequate resources from the start. It is now widely recognized that UNEP can't perform all its assigned tasks, and some argue that it should rather concentrate on its science function and coordinate scientific activities throughout the UN system.<sup>28</sup> They propose that UNEP should oversee environmental monitoring, and provide the collected information to the international community through a variety of channels. If monitoring activities were clustered across environmental issues, it would be possible to gain economic efficiency and also to accelerate the flow of timely early warning information. In the context of MEAs, most environmental monitoring has taken place at the regional level, and given the current political environment and limited political will, accumulating experience at a smaller scale may facilitate bigger changes when the political environment changes. Some knowledge is also already collected regionally and not globally, as is the case in regard to regional seas. In this sense, institutions such as UNEP's regional offices may serve as a starting point for reform by creating regional hubs for monitoring, collecting, and disseminating environmental information.

At present, UNEP lacks the resources to perform all its governance functions effectively and to pressure states to pursue environmentally sustainable policies. However, it is also true that UNEP has long-standing experience with coordinating loose and decentralized networks around the world. Thus it may be capable of serving a coordinating role to ensure

that the multiple elements of MEAs are coordinated, to anticipate any gaps, and to keep members of international policy networks in touch with one another. It could serve as an air-traffic controller for issues on the international environmental agenda, as well as for the multitude of associated ongoing studies and negotiations. The *Secretary General's High-level Panel on UN System-wide Coherence in the Areas of Development, Humanitarian Assistance, and the Environment* recommended that “efficiencies and substantive coordination should be pursued by diverse treaty bodies to support effective implementation of major multilateral environmental agreements.” It further recommends that “stronger efforts should be made to reduce costs and reporting burdens and to streamline implementation.” Rather than serving as a coordinating body of MEAs, UNEP, or a reformed UNEP, could more effectively serve as an air-traffic controller by sending signals for enhancing synergies and reducing disruption.

Centralization or Co-location of MEA secretariats has the potential to reduce overall administrative costs, further increase coordination activities and possibly increase the number of joint meetings. Increasing the number of simultaneous or concurrent meetings also has the potential to increase participation from developing countries, as mentioned earlier. This is in line with many recommendations on environmental governance reform, including the above-mentioned Secretary General's High-level Panel on UN System-wide Coherence, as it recommends that “greater coordination at headquarters should promote coherence at the country level, and greater coordination efforts at the country level should promote coherence at the international level.”

The coordination of MEAs, or the creation of a sophisticated network hub for the MEA system, could be performed by UNEP if it is upgraded to a specialized agency, or by a reformed EMG or GMEF. But given the current situation regarding environmental and sustainable development issues and the lack of political will to reform, upgrading UNEP and providing it with “real authority as the ‘environmental policy pillar’ of the UN system, backed by normative and analytical capacity and with broad responsibility to review progress towards improving the global environment”<sup>29</sup> seems difficult to achieve within the near future, although such a path should be pursued in the long run. As to reforming either EMG or GMEF, its purpose and mandates must first be clarified to make its institutional foundation firmer.

Environmental governance occurs through complex synergies between networks of actors involving various levels of international politics. Current governance arrangements remain a crazy quilt of

overlapping activities, about which many governmental, academic, and NGO environmental analysts express misgivings. While the system is probably too complex to grasp easily, it should not be dismissed out of hand because a cursory view makes it appear incoherent. Gus Speth embraces the decentralized system, stressing its potential for innovation.<sup>30</sup> Needless to say, there are weaknesses in the current MEA system which will need to be addressed and unnecessary overlaps should be resolved. In order to identify where and how to reform, I suggest that more attention be paid to clarifying who the key actors are and which governance functions they perform best in addressing particular environmental threats. Only then, can the institutional reforms required to create a successful MEA network system in a concrete manner become more apparent.

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#### Notes

- <sup>1</sup> Ronald B. Mitchell, *International Environmental Agreements Website*, 2003. Available at: <http://www.uoregon.edu/~iea/> and described in Ronald B. Mitchell, "International Environmental Agreements: A Survey of Their Features, Formation, and Effects," *Annual Review of Environment and Resources* 28 (November), 2003.
- <sup>2</sup> Mitchell 2003.
- <sup>3</sup> <http://www.ecolex.org/indexen.php>.
- <sup>4</sup> Adil Najam, Mihaela Papa and Nadaa Taiyab, *Global Environmental Governance : A Reform Agenda*, (IISD, 2006); Markus Knigge, Johannes Herweg and David Huberman, *Geographical Aspects of International Environmental Governance: Illustrating Decentralisation*, (Berlin: Ecologic, 2005); and Peter Roch and Franz X. Perrez., "International Environmental Governance: The Strive Towards a Comprehensive, Coherent, Effective and Efficient International Environmental Regime," *Colorado Journal of Environmental Law and Policy*, vol. 16:1, (2005).
- <sup>5</sup> Jan Pronk and Mahbub Ul Haq, *Sustainable Development: From Concept to Action*, The Ministry of Development Cooperation (Netherlands), UNDP and UNCED, 1992; Johan Holmberg ed., *Making Development Sustainable*, (Washington DC: Island Press, 1992); and Joan Nelson and Stephanie J. Eglinton, "Global Goals, Contentious Means," *Policy Essay* No. 10, (Washington, DC: Overseas Development Council, 1995).
- <sup>6</sup> Vinod K. Aggarwal, *Institutional Designs for a Complex World*, (Cornell University Press, 1998); Elinor Ostrom, "Decentralization and Development: The New Panacea," in *Challenges to Democracy: Ideas, Involvement and Institution*, ed. Keith Dowding, James Hughes and Helen Margetts, 237-256, (Palgrave Publishers, 2001); Christopher K. Ansell and Steven Weber "Organizing International Politics," *International Political Science Review*, January (1999); and Peter M. Haas, Norichika Kanie and Craig N. Murphy, "Conclusion: Institutional design and institutional reform for sustainable development," in *Emerging Forces in Environmental Governance*, ed. Norichika Kanie and Peter M. Haas (UNU Press, 2004).
- <sup>7</sup> Najam et.al. 2006.
- <sup>8</sup> Edith Brown Weiss, "International Environmental Issues and the Emergence of a New

- World Order,” *Georgetown Law Journal* 81 (3) (1993): 675-710.
- <sup>9</sup> Najam et al. 2006; Knigge et al. 2005; and Roch and Perrez 2005.
- <sup>10</sup> Najam et al. 2006.
- <sup>11</sup> Sebastian Oberthur and Thomas Gehring eds., *Institutional Interaction in Global Environmental Governance: Synergy and Conflict among International and EU Policies*, (MIT Press, 2006): 318.
- <sup>12</sup> Oberthur and Gehring 2006.
- <sup>13</sup> For example: Felix Dodds, “Reforming the International Institutions,” in *Earth Summit 2002* ed. Felix Dodds (London: Earthscan, 2000); Steve Charnovitz, “A World Environment Organization,” *Columbia Journal of Environmental Law*, vol. 27 No 2, (2002): 323-362; and Frank Biermann and Steffen Bauer, *A World Environment Organization: Solution or Threat for Effective International Environmental Governance?* (Aldershot, UK: Ashgate, 2005).
- <sup>14</sup> <http://www.unemg.org/>
- <sup>15</sup> UN General Assembly Document A/53/463, Par. 11.
- <sup>16</sup> Najam et al. 2006.
- <sup>17</sup> Dodds 2000; Charnovitz 2002.
- <sup>18</sup> Daniel Esty, “The Case for a Global Environmental Organization,” in *Managing the World Economy* ed. Peter B. Kenen, 287-310, (Washington DC: Institute for International Economics, 1994); Frank Biermann, “The Emerging Debate on the Need for a World Environment Organization,” *Global Environmental Politics* February (2001): 45-55; and Frank Biermann, “The Case for a World Environment Organization,” *Environment* 42 (9) (2000): 22-31; German Advisory Council on Global Change (WBGU), *World in Transition 2* (London: Earthscan, 2001).
- <sup>19</sup> Daniel C. Esty and Maria H. Ivanova eds., *Global Environmental Governance*, (New Haven: Yale School of Forestry & Environmental Studies, 2002); Peter M. Haas, “Pollution,” in *Managing Global Issues*, ed. P.J. Simmons and Chantal de Jonge Oudraat, 310-353, (Washington DC: Carnegie Endowment for International Peace, 2001); and Biermann 2006 identified three types of WEO/GEO in the recent debate.
- <sup>20</sup> James G. Speth, “A Post-Rio Compact,” *Foreign Policy*, No. 88 Fall (1992).
- <sup>21</sup> Ul Haq, Mahub, *Reflections on Human Development*, (New York: Oxford University Press, 1995).
- <sup>22</sup> Governing Council of the United Nations Environment Programme “Global Ministerial Environment Forum,” S.S. VII/I. International Environmental Governance. (UNEP/GC/21).
- <sup>23</sup> UNEP/IGM/5/2 and *Earth Negotiations Bulletin*, vol 16 No 20 IGM-NYC Final Summary <http://www.iisd.ca/linkages/unepgc/iegnyc/>.
- <sup>24</sup> “Common but differentiated responsibility” is agreed as the Principle 7 of the Rio Declaration on Environment and Development (A/CONF.151/26) in 1992.
- <sup>25</sup> For example, Najam et al. 2006.
- <sup>26</sup> Biermann 2000, 2001; Esty 1994, Frank Biermann and Udo Simonis, “A World Environment and Development Organization,” *SEF Policy Paper* 9 (1998); Geir Ulfstein, “The Proposed GEO and its Relationship to Existing MEAs,” Paper presented at the *International Conference on Synergies and Coordination between Multilateral Environmental Agreements*, UNU, 14-16 July 1999. Also see UNU/IAS *Report International Sustainable Development Governance: The Question of Reform: Key Issues and Proposals*, UNU/IAS, August 2002.
- <sup>27</sup> Aggarwal 1998; Ansell and Weber 1999; Ostrom 2001; and Haas 2004.
- <sup>28</sup> Haas et al. 2004; see also UNEP Science Initiative <http://science.unep.org>.

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<sup>29</sup> The Report of the Secretary-General's High-Level Panel "Delivering as One" (A/61/583): 20-21.

<sup>30</sup> James G. Speth, "A New Green Regime," *Environment* 44 (7) (2002): 16-25.