

REFORMING GLOBAL ENVIRONMENTAL GOVERNANCE: FROM UNEP TOWARDS A WORLD ENVIRONMENT ORGANIZATION

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Introduction

In February 2007, 46 countries¹ came together in Paris for a joint proposal to upgrade the United Nations Environment Programme to a Specialized Agency within the United Nations system. This proposal is not new. In fact, the debate on a special UN agency for the protection of the environment dates back more than thirty years to George Kennan's (1970) proposal for an international environmental agency.² Now, with the recent support of one fourth of the community of nations, including many powerful countries from the North and South, the debate has reached a new stage.

A variety of names have been used in proposals for the creation of a new agency, including "International Environmental Agency," "Global Environmental Organization," "World Environment Organization," or "United Nations Environment Organization." The official proposal of the 46 countries models the new body along the lines of the World Health Organization. Therefore, in this chapter, I will refer to such a new agency as the "World Environment Organization (WEO)."

This chapter explores three basic objectives that I believe a WEO could achieve, and discusses five major issues that currently stand at the center of the debate.³ It draws on, but also differs from my previous writing, in that it reflects some of the criticisms that have been raised.⁴

In a nutshell, I propose to maintain the current system of issue-specific international environmental regimes while strengthening environmental protection by *upgrading* UNEP from a mere UN program to a full-

fledged international organization with increased financial and staff resources and enhanced competencies and legal mandate. In this model, a WEO would function and have powers similar to other international organizations. Member States might then be inclined to shift some competencies related to the environment from those other bodies to the new WEO. In particular, the new organization would provide a venue for the co-location and eventually joint administration of the myriad convention secretariats. The organization would also have its own budget, based on assessed contributions by Member States, and it could make use of future innovative financial mechanisms, such as revenues from emissions trading regimes. Additional financial and staff resources could be devoted to the fields of awareness raising, technology transfer and the provision of environmental expertise to international, national and sub-national levels. The elevation of UNEP to a world environment organization of this type could be modeled on the WHO or the International Labor Organization (ILO), that is, independent international organizations with their own membership, structure, and budget.

If UN Member States would agree on establishing a WEO as a UN Specialized Agency, this body would be based on a constitutive legal instrument that would require ratification of a certain number of states to become effective. The creation of such an organization would not require the legal acquiescence of all nations, and it would have autonomy over its own organizational design. A separate decision by the UN General Assembly would be needed to formally abolish UNEP and to transfer its staff and assets to the new agency.

Upgrading UNEP to a Specialized Agency would follow the long-standing policy of functional specialization within the UN system, with the United Nations Organization as the focal point among numerous independent organizations for specific issues, such as food and agriculture (FAO, established in 1945); education, science, and culture (UNESCO, 1945); health (WHO, 1946); civil aviation (ICAO, 1944); or meteorology (WMO, 1947). While some specialized organizations are much older than the United Nations itself (for instance the Universal Postal Union, created in 1874), most were founded simultaneously with the establishment of the United Nations, since it was felt at that time that the vast number of issues in the economic, social or technical fields would “over-stretch” the world body. Environmental problems, however, were of no major concern in 1945, with the term “environment” not even appearing in the UN Charter. It was only in 1972 that UNEP was set up as a mere program, without legal personality, without the capacity to determine its own budget, and—according to its founding instruments—with only a

“small secretariat,” and as a result it bears no comparison to specialized agencies that can avail themselves of more resources and hence influence.

Given the multitude of reform pitches, my proposal for a WEO is a moderate proposition. It even seems to be agreeable to some of the outspoken opponents of a world environment organization. Adil Najam, for example, proposes “to convert UNEP into a Specialized Agency (as opposed to a ‘Programme’) with the concomitant ability to raise and decide its own budget.”⁵ This is what I more or less propose as a WEO.

The proposed WEO differs from some of the more radical approaches in the literature that demand, for example, the abolishment of major existing agencies such as the World Meteorological Organization, the creation of a new agency with enforcement power—e.g. through trade sanctions—or the creation of a new agency *in addition to* UNEP, which would remain but transfer many of its functions to the new organization.⁶ Most of these radical designs appear both unrealistic and undesirable as well as politically unfeasible or unnecessary today. Strong enforcement mechanisms, such as trade sanctions, tend to be unfair by typically targeting less powerful developing countries while leaving larger industrialized countries unaffected.⁷ Establishing a new agency *in addition to* UNEP—as proposed by Kirton might even create new coordination problems while attempting to solve others.

In the following section, the three core functions that a world environment organization should fulfill are described followed by a section on five major issues in the current discussions.

Three Core Functions of a World Environment Organization

Better Coordination of Global Environmental Governance

To upgrade UNEP to a UN Specialized Agency - and thus to a WEO - could help ameliorate the coordination deficit in the international governance architecture that results in substantial costs and sub-optimal policy outcomes. Since 1972, when UNEP was set up, the increase in international environmental regimes has led to a considerable fragmentation of the entire system. Norms and standards in each area of environmental governance are created by distinct legislative bodies—the conferences of the parties to various conventions—with little respect for repercussions and links with other fields and entities. While the decentralized negotiation of rules and standards in separate functional bodies may be defensible, this is less so in regards to the organizational fragmentation of the various convention secretariats, which have evolved into rather independent bureaucracies with strong centrifugal tendencies.⁸

In addition, most of the specialized agencies, such as the UN Food and Agriculture Organization (FAO) or the UN Organization for Industrial Development (UNIDO), have initiated their own environmental programs independently from each other and with little policy coordination between them or with UNEP. The prevailing situation at the international level could be compared to a state abolishing its national environment ministries and scatterings its programs and policies to the ministries of agriculture, industry, energy, economics or trade: a policy proposal that would not find many supporters in most countries. It is for good reasons that there are no functionally different secretariats for the many conventions on labor or on trade, which are administered instead by single specialized agencies, the International Labor Organization (ILO) and the World Trade Organization (WTO), respectively.

This problem of lack of coordination is well known. The attempt to network individual organizations, programs and offices has been ongoing since 1972, when a first coordinating body was set up within the UN. This and its successors, however, have lacked the legal authority to overcome the special interests of individual departments, programs and convention secretariats. For global environmental policy, no central anchoring point exists that is comparable to WHO or ILO in their respective fields. Instead, there is an overlap in the functional areas of several institutions. As reaffirmed by environment ministers represented in the UNEP expert group on international environmental governance, there is a “compelling rationale for a comprehensive effort at rationalizing, streamlining and consolidating the present system [of] multilateral environmental agreements.”⁹ An international center with a clear strategy aimed at ensuring worldwide environmental protection is thus the need of the hour. Just as within nation states, where environmental policy was strengthened through introduction of independent environmental ministries, global environmental policy could be made stronger through an independent WEO that helps to contain the special interests of individual programs and organizations and to limit duplication, overlap and inconsistencies.

In addition to the co-location of secretariats of multilateral environmental treaties under a WEO umbrella, Member States could empower the new agency with the coordination of existing and future multilateral environmental regimes. This would of course require the agreement of the respective conferences of the parties. The constitutive treaty of the organization could provide general principles for multilateral environmental agreements as well as coordinating rules that govern the

organization and its relationship with the issue-specific environmental regimes.

Following WTO usage, environmental regimes covered by the proposed WEO could be divided into “multilateral” and “plurilateral” environmental agreements. For “multilateral” agreements, ratification would be compulsory for any new member of the organization, while “plurilateral” agreements would still leave members the option to remain outside. The multilateral agreements would thus form the “global environmental law code” under the world environment organization, with the existing conferences of the parties - say, to the Montreal Protocol on Substances that Deplete the Ozone Layer - being transformed *de jure* or *de facto* into sub-committees under the WEO Assembly. This would enable the WEO Assembly to develop a common reporting system for all Multilateral Environmental Agreements (e.g., an Annual National Report to the WEO); a common dispute settlement system; mutually agreed guidelines that could be used - based on an inter-agency agreement - for the environmental activities of the World Bank and for environmentally-related conflicts regulated under the WTO dispute settlement system; as well as a joint system of capacity-building for developing countries.

The streamlining of environmental secretariats and negotiations into one body would especially increase the voice of the South in global environmental negotiations. The current system of organizational fragmentation and inadequate coordination causes special problems for developing countries. Individual environmental agreements are negotiated in a variety of places, ranging - for example in ozone policy - from Vienna to Montreal, Helsinki, London, Nairobi, Copenhagen, Bangkok, Nairobi, Vienna, San José, Montreal, Cairo, Beijing and Ouagadougou. Conferences on climate change, as another example, have been hosted in a circular movement covering four continents (Berlin, Geneva, Kyoto, Bonn, Buenos Aires, The Hague, Marrakech, New Delhi, Milan, Buenos Aires, Montreal and Nairobi). This nomadic nature also characterizes most sub-committees of environmental conventions.

Developing countries lack the resources to attend all these meetings with a sufficient number of well-qualified diplomats and experts. Often, even larger developing countries - and occasionally developed countries too - need to rely on their local embassy staff to negotiate highly complex technical regulations on the environment. The task of adjusting and amending the highly technical lists of chemicals controlled under the Montreal Protocol in Helsinki 1989, for example, was entrusted to the Indian ambassador to Finland.¹⁰ This system of a “traveling diplomatic circus” distinguishes environmental governance from other policy fields,

where negotiations are usually held within the assembly of an international agency at its seat. The creation of a world environment organization could thus help developing countries to build up specialized “environmental embassies” at the seat of the new organization. This would reduce costs and increase their negotiation skills and hence influence. The same could be said for non-governmental organizations, which could participate in global negotiations within the WEO Assembly and its committees at lower costs.

It has been argued that global public policy networks would be the answer to the coordination problem in global environmental governance, rather than a new UN Specialized Agency.¹¹ This contrast of networks versus agency, however, is flawed and stems from an incomplete reading of the WEO literature. Most global public policy networks include international organizations, and an upgraded UNEP would continue to be part of these networks, yet be stronger and more active because of its strengthened mandate and improved resources. Instead of superseding public policy networks, a WEO would be complementary to the existing networks that have evolved around specific issues; it could even spearhead and lead new networks on new issues as they come onto the agenda. The World Commission on Dams, as an example for a prominent global public policy network, was initiated by the World Bank¹² - but such a network could have been initiated by a WEO instead.

Better Development and Implementation of International Environmental Law

If UNEP were upgraded to a UN Specialized Agency - a WEO - it would also be better poised to support regime-building processes, especially by initiating and preparing new treaties. The ILO can serve as a model here. ILO has developed a comprehensive body of “ILO conventions” that come close to a global labor code. In comparison, current global environmental policy is far more disparate and cumbersome in its norm-setting processes. It is also riddled with various disputes among various UN Specialized Agencies regarding their competencies, with UNEP in its current form being unable to adequately protect environmental concerns.

An environmental Specialized Agency could also approve - by qualified majority vote - certain regulations, which would then be binding on all members, comparable to article 21 and 22 of the WHO Constitution.¹³ Likewise, the WEO Assembly could adopt draft treaties negotiated by sub-committees under its auspices and which would then be opened for signature within the WEO headquarters. The ILO Constitution, for example, requires its parties in article 19:5 to submit, within one year, all treaties adopted by the ILO General Conference to

the respective national authorities (such as the parliament) and to report back to the organization on progress made in the ratification process. This goes much beyond the powers of the UNEP Governing Council, which can *initiate* intergovernmental negotiations, but cannot *adopt* legal instruments on its own.

Apart from regime-building and norm-setting, a WEO could also improve the overall implementation of international environmental policy, for example by a common comprehensive reporting system on the state of the environment and on the state of implementation in different countries, as well as by stronger efforts in raising public awareness. At present, several environmental regimes require their parties to report on their policies, and a few specialized agencies collect and disseminate valuable knowledge and promote further research. Yet there remains a sizeable lack of coordination, bundling, processing and channeling of this knowledge in a policy-oriented manner. Most conventions still have different reporting needs and formats, with a certain amount of duplication.

The current system is burdensome especially for developing countries, since the myriad reporting systems siphon off administrative resources that governments could use for other purposes. All reporting requirements could, however, easily be streamlined into one single report to be dispatched to one single body, such as a WEO, which would be based on a legal agreement specifying the reporting processes and needs. Instead of adding another layer of bureaucracy, as often surmised by reform opponents, a WEO would thus provide a level of streamlining and harmonization that would reduce the current administrative burden, in particular for developing countries.

Improved Financial and Technology Transfer to the South

Upgrading UNEP to a UN Specialized Agency - a WEO - could also assist in the build-up of environmental capacities in developing countries. Strengthening the capacity of developing countries to deal with global and domestic environmental problems is one of the essential functions of international environmental regimes.¹⁴ Yet, the current organizational arrangements for financial North-South transfers suffer from an *ad-hocism* and fragmentation that does not fully meet the requirements of transparency, efficiency and equitable participation of the parties involved. At present, most industrialized countries strive for a strengthening of the World Bank and its affiliated Global Environment Facility (GEF), to which they will likely wish to assign most financial transfers. However, many developing countries continue to perceive the World Bank as a

Northern-dominated institution ruled by decision-making procedures based on contributions. Though the GEF was substantially reformed in 1994 and is governed together with UNEP and UNDP, it still faces criticisms from the South.

An alternative could be to move the tasks of overseeing capacity-building and financial and technological assistance for global environmental policies to an independent body that is specially designed to account for the distinct character of North-South relations in global environmental policy, linking the normative and technical aspects of financial and technological assistance, and strong enough to overcome the fragmentation of the current multitude of single funds. Such a body could be a WEO, sufficiently empowered to coordinate various financial mechanisms and administer the funds of sectoral regimes in trust. In addition, a WEO could host the Clean Development Mechanism and the clearinghouse for the future emissions trading scheme under the Kyoto Protocol to the UN Framework Convention on Climate Change, which would reduce bureaucratic overlap, increase efficiency, and assist in preventing conflicts with other, non-climate related environmental problems. User fees resulting from various mechanisms in the Kyoto Protocol could help finance the new WEO. Finally, the new body could be used for any future scheme of automatic financial mechanisms, such as the global user fees on air and maritime transport, as has been proposed, for example, by the German Environment Minister.¹⁵ Last but not least, a Specialized Agency, as opposed to a Programme within the UN system, would allow for a system of regular, predictable and assessed contributions of members, instead of voluntary contributions generated at unpredictable “pledging conferences,” as is currently the case with UNEP.

There is no need to set up new large financial bureaucracies. Instead, a WEO should still make use of the expertise of the World Bank or the UN Development Programme (UNDP), including their national representatives in developing countries. By designating a WEO as a central authoritative body for the various financial mechanisms and funds, however, the control of developing countries over implementation could be strengthened, without giving away the advantages of technical expertise and knowledge of existing organizations. The norm-setting functions of the GEF, for example, regarding the criteria for financial disbursement, could be transferred to the WEO Assembly in a system that would leave GEF the role of a “finance ministry” under the overall supervision and normative guidance of the WEO Assembly. This would unite the economic and administrative expertise of the GEF secretariat with the “legislative” role of a WEO.

Core Issues of Debate

This section addresses some of the major issues and concerns in the debate on a world environment organization. Five issues are discussed: whether such an agency would focus only on global issues or also on local issues (in particular with regard to developing countries); what role civil society could play in global governance, including within a world environment organization; whether such a body should focus on environmental protection or rather on sustainable development; whether such an agency would be in the interest of developing countries; and whether the clustering of multilateral environmental agreements is an alternative to a WEO.

Global Commons versus World Problems

The creation of a new agency will require the delineation of its mandate, especially whether it will cover all environmental problems or just a subset, the so-called “global” environmental problems. I believe that a WEO will only be functional and universally acceptable if it covers environmental concerns at all levels. Some other writers, however - most explicitly Daniel C. Esty and Maria Ivanova - have argued for a “Global Environmental Organization” (GEO) that would exclusively deal with what they conceive of as “global environmental problems.”¹⁶ While they have not listed in detail the environmental issues that should be addressed by a GEO, they contend that local problems - such as local air pollution, soil degradation or water poisoning - must not be part of a GEO.¹⁷

This GEO concept is technically problematic, potentially unfair, and difficult to implement. First, the terms “global environmental problems” or “global commons” are hard to define in a legal-political context. Forests, for example, have been mentioned as a global common owing to their environmental functions in the earth system, but most developing countries would object to notions of limited sovereignty in this field. If the atmosphere were politically or legally defined as a “global common,” what would be the result for national energy policies, or traffic policies, in Uzbekistan, Uganda or the United States - would they be seen as global or as local issues? Consequently, the adjective “global” has not been used to denote an international agency, with the notable exception of the Global Environment Facility, which expressly excludes local problems and has thus been criticized by developing countries.

A second problem is that at present, UNEP addresses all forms of environmental problems, from the local to the global. The creation of a GEO, based on UNEP, would thus either entail the restriction of the

current universal mandate of UNEP, or it would require the establishment of some parallel international entity for local environmental issues. A number of successful UNEP programs, such as the UNEP Regional Seas Programme, would entirely fall out of the purview of such a “global” organization. It is likely that such a development would create a two-tier, if not “two-class” international organizational structure: first, a strong “Global” Environment Organization with a worldwide reach, significant financial resources and the support of industrialized countries, dealing with issues of immediate concern for the North, such as climate change, loss of biodiversity or ozone depletion; and second, a weak, if not non-existent, international mechanism for the local environmental problems of developing countries, ranging from water pollution to indoor air pollution.¹⁸ This seems hardly acceptable for developing countries, and it would, in the long run, do little for the environment. The prevalent distrust from the South in this debate is mirrored in a UNEP report on “convention clustering” which placed the conventions on climate and ozone depletion—presumably prime candidates for a “global common issue” - not in a cluster of atmospheric issues (which is absent), but in a cluster of “sustainable development conventions,” indicating the special status which developing countries bestow on the socio-economic implications of the climate issue.¹⁹

In sum, given the ambiguity of the word “global,” the creation of a “Global” Environment Organization, as opposed to a “World” organization, could be tantamount to the “downsizing,” if not the abolition of most efforts and programmes of the international community to tackle local environmental pollution and degradation in Africa, Asia and Latin America. When in the preparatory process to the Johannesburg summit a group of environmental ministers was set up to find ways to strengthen the UN system in this area, developing countries objected to the use of the term “global environmental governance,” opting instead for “international environmental governance.” If a new international UN agency on environmental issues were to be created, it would thus seem crucial to structure it as a “World Environment Organization”, analogous to the World Health Organization or the World Food Programme or other agencies with a universal mandate that includes local problems.²⁰

Civil Society versus Intergovernmental Agencies

It is not uncommon in the environmental governance literature to juxtapose the WEO debate with the need to strengthen the role of civil society actors. UNEP, the Commission on Sustainable Development or the conferences of the parties to the major environmental conventions

have all been important venues for the influence of environmentalists, scientists or business representatives. There is no reason to believe that upgrading UNEP to a Specialized Agency would decrease this influence.

Instead, a new body would allow governments and civil society actors to institutionalize the influence of non-state actors in a way that would make it stronger, but also more balanced. This is important since developing countries generally object to increases in the influence of non-governmental organizations in international *fora* because they view these groups as being more favorable to Northern agendas, perspectives, and interests. Indeed, most NGOs are headquartered in industrialized countries, and most funds donated to their causes stem from Northern organizations, both public and private. In quite a few cases, this situation influences the agenda of these groups, which are more accountable to Northern audiences than to elected Southern authorities.²¹ The same holds for international scientific networks, which are largely sustained by Northern scientists and Northern research funds. Here, too, it has been argued that “international science,” in particular in its social science parts, is structured in a way that favors Northern perspectives and is hence not taken at face value by Southern constituencies.²²

These suspected biases in the work of non-governmental actors, however, should not lead to a decrease in the participation of civil society, but rather to the setting-up of mechanisms that ensure a balance of opinions and perspectives. A WEO, with a strong and influential WEO Assembly, could further this goal. It would provide a highly visible *locus* for the activity of non-governmental groups while offering at the same time mechanisms in its decision-making process that would institutionalize the influence of non-governmental groups in a way that guarantees a balance of views and interests.

A general model for achieving more of a balance - though not necessarily fitting as a one-to-one blueprint - is the ILO decision-making procedure.²³ Here, each Member State is represented with four votes, two of which are assigned to governments and one each to business associations and labor unions. An ILO-type procedure would address the basic problem of “global” civil society,” namely that environmental groups can often not adequately compete with the financial clout of business associations, and that NGOs from developing countries lack standing vis-à-vis the financially well-endowed NGOs from industrialized countries. An ILO-type structure would thus grant business and environmental interests at least formally equal rights, and it would guarantee that the Southern NGOs would have the kind of clout in accordance with the population represented by them. Of course, there are

a number of problems associated with applying such a procedure to international environmental policy. There are thus far only a few federations of environmental organizations that convincingly represent their entire national clientele, and many smaller developing countries lack NGOs with sufficient expertise to participate in international *fora*. Nonetheless, such coalitions and organizations could well emerge in the foreseeable future. Indeed, this process could be accelerated by enshrining the representation of (voting) non-governmental organizations from both camps - environment associations on the one hand and industry federations on the other - in the WEO statute.

The ILO formula is far from perfect, in particular given the higher degree of complexity in environmental policy compared to the more clear-cut “business versus labor”-type of conflicts. And yet, the ILO provides a conceptual model with suggestions for equitable participation of civil society in a WEO Assembly.

Environmental Protection versus Sustainable Development

Some have argued that the environment is too complex an issue to shape the mandate of a single organization. Calestous Juma, for example, contends that a “world environmental agency would need to cover every conceivable human activity.”²⁴ Some participants in the debate have therefore proposed to create a “world organization on sustainable development” instead of a “world environment organization.”²⁵ Such a new organization is often conceptualized as a merger (and upgrade) of UNEP and UNDP (at least). I view this option as problematic: a merger of UNEP and UNDP would be a marriage of unequals that is likely to harm environmental interests in the long run without necessarily strengthening development goals.

First, UNDP and UNEP are unequal regarding their sheer size and resources. Taking into account the twelve-fold larger core budget of UNDP vis-à-vis the UNEP Environment Fund as well as a ratio of roughly four to one in professional staff, a merger of both programs would come close to the dissolution of UNEP within the significantly larger UNDP. Theoretically, this could result either in a strengthening of environmental goals within the development community or in the slow degrading and watering down of environmental goals in a larger new, development-oriented agency. It is difficult to believe, however, that the much smaller “environmental” community would eventually prevail in changing the much larger “development” community within an overall new organization. It seems certain that the strength and independence of

environmental concerns would be weakened over time which would not be in the interest of either the North or South.

Second, functional differentiation in governance systems between socio-economic development and environmental protection makes sense. Hardly any country has opted for the administrative merger of “economic development” and “environmental protection” as policy areas at the national level. Despite two decades of debate on sustainable development, few examples of integrated ministries of sustainable development can be found. Most countries maintain the differentiation between their economic (or development) ministries, and their environmental ministries. It is not clear why administrative functional differentiation should differ at the international level. Most international organizations and national ministries have clearly defined mandates for their respective policy areas, and it is theoretically not difficult to demarcate the responsibilities of a new international organization for the environment.²⁶ All this advises against the merger of UNEP and UNDP into one integrated program or organization.

Third, while UNEP has an important role in agenda-setting and knowledge-management, UNDP is primarily operational. UNEP initiates new treaties; organizes international diplomatic conferences; trains national administrative and legal personnel; and synthesizes and disseminates new knowledge regarding both fundamental and applied environmental science. UNDP, on the other hand, generates and implements projects, with less regard to international standard-setting or knowledge-generation. A merger of UNDP and UNEP runs the risk that the distinct functions of UNEP will be diminished within such a larger new agency.

If, on the other hand, a world organization on sustainable development would imply merely the upgrading of UNEP to an international organization with this name, while leaving other bodies - including UNDP or the World Bank - untouched, it is unclear what consequences the choice of the organization's name - “sustainable development” instead of “environment” - would have. Opponents might rightfully complain that this would reduce the overarching concept of “sustainable development” to what many Southern experts believe to be the Northern understanding: a new attractive yet deluding label for environmental protection.²⁷ To the extent that sustainable development is understood as the established triad of socially, economically and ecologically sound development, one must object to a conceptualization of a world organization on sustainable development that addresses predominantly traditional environmental policy. In sum, a world

organization on sustainable development would be either ill-advised if it implies the integration of UNEP and UNDP, or a misuse of a key concept of North-South relations if it merely implies giving a new name to an essentially environmental organization.

This does not, however, imply that a WEO should address environmental policy as unrelated to the larger quest for development. A WEO should aim at the preservation of environmental resources *within* the development process, not unlike the role of environmental ministries in developing countries. A WEO should not be seen in juxtaposition of environment *and* development, but rather within a framework of environment *for* development. The WEO constitution would hence have to encompass more than purely environmental rules, but address the development concerns of the South as well. Therefore, general principles such as the right to development, the sovereign right over natural resources within a country's jurisdiction or the principle of common but differentiated responsibilities and capabilities need to be integrated into the constitutive instrument of the world environment organization.

Southern Interests in a World Environment Organization

So far, some 50 countries have indicated their support of a world environment organization. Many developing countries have kept silent or voiced their skepticism about any attempt to strengthen global environmental governance without sufficient guarantees that their own right to development will not be negatively affected. Yet, a WEO, in fact, might meet the interests especially of the South by providing for a more efficient and effective transfer of technology and financial aid to developing countries, and by creating a more efficient negotiation system that will increase the opportunities of (smaller) nations from the South to raise their voice in global *fora*.²⁸ It could also strengthen the collective bargaining power of developing countries as it would facilitate better coordination of their common positions.

Decision-making procedures based on North-South parity - i.e., veto rights for the South (and the North) as a group - could ensure that the WEO would not evolve into a new form of eco-colonialism, as many Southern actors and observers may fear. One solution could be a double-weighted majority voting system in the WEO Assembly, comparable to that of the Montreal Protocol as amended in 1990 or of the Global Environment Facility as reformed in 1994.²⁹ In both institutions, decisions not only require the assent of two thirds of members but also the simple majority of both developing and developed countries. This system of North-South parity in decision-making represents a new "third

path” between the one-country, one-vote formula of the UN General Assembly, which grants developing countries a built-in majority, and the one-dollar, one-vote system of the World Bank and the International Monetary Fund, which favors the interests of the major industrialized countries. Given that the concept of double-weighted voting has been developed within the environmental field, it seems to be an ideal basis for voting within the WEO Assembly.³⁰

A world environment organization could become the first UN Specialized Agency to reside in a developing country. Some Northern experts complain that Nairobi, the current seat of UNEP, would be a sub-optimal place for the headquarters of an efficient international bureaucracy, in particular since it is difficult to recruit highly qualified staff with families for positions in Nairobi. On the other hand, modern means of electronic communication have improved the situation substantially. Furthermore, the UN office in Nairobi remains the only UN headquarters in a developing country. It seems unlikely that UNEP - or a subsequent world environment organization - would be transferred to Geneva or New York: a new WEO would most likely hail if not from Nairobi, then at least from another developing country.

Clustering is Important but only Part of the Solution

Clustering of some of the hundreds of multilateral environmental agreements has been proposed to address the apparent coordination problems in global environmental governance. Clustering could involve the relocation of treaty secretariats, including the streamlining of administrative services, as well as the co-scheduling of conferences of the parties to related conventions (for instance through back-to-back meetings); the clustering of environmental reporting and information generation and distribution, for example in uniform reports, scientific assessments and clearinghouses; or the synchronization of the meetings of treaty bodies.³¹

Such limited reform efforts, however, are no substitute for the upgrading of UNEP to a Specialized Agency and for the co-location and joint administration of convention secretariats within this body. Clustering can only be a first step for a larger reform effort. There are so many different levels of clusters for convention-related activities necessary that separate clusters at each of these levels would not solve the existing coordination problems, but could even exacerbate them. For example, convention-related efforts need to be clustered, at one level, according to the environmental medium that is to be protected. Examples would be those agreements that protect the atmosphere or those that protect the

marine environment. Such form of clustering is required in particular regarding scientific research and assessment, since the behavior, transportation and effects of greenhouse gases, ozone-depleting substances and persistent organic pollutants are the subject of similar and related scientific efforts and models.

At another level, however, convention-related efforts need to be clustered according to the human activity at the root of the problem, for example intensive agriculture, transportation, or industrial production. Yet such activity-based clusters would require a different cut. The climate convention, for example, would need to be clustered, for one, with the agreements affecting transportation (together with marine pollution treaties, for example); with agreements regulating industrial production (e.g., jointly with the agreements on ozone-depleting and persistent organic pollutants); with deforestation-related conventions, such as the biodiversity convention; and with soil-related conventions, like the desertification convention.

Furthermore, clusters are needed to address common problems related to the environmental policy instrument chosen. One example would be a cluster of agreements that require restrictions in trade, for example trade in ozone-depleting substances, in endangered species, in persistent organic pollutants, in hazardous waste, or in genetically modified organisms. The practical implications could be joint programs for the training of custom officials or joint information-sharing mechanisms. Another area of clustering would be capacity-building in the South. Many environmental agreements have their own provisions on capacity-building, or even their own funding mechanism for these activities (e.g., the Montreal Protocol), without necessarily much coordination. This would, again, call for a different set of clusters. A fourth cut would be regional clusters.³²

To cluster environmental conventions according to all these levels could significantly increase the coordination deficits of the current system, instead of reducing them. If we consider the Montreal Protocol as an example, one would need to cluster it, first of all, with the climate convention and the Stockholm convention on persistent organic pollutants, based on the medium to be protected; second, with these and the Basel convention on hazardous waste and some ILO conventions in a cluster on industrial production; third, with the convention on trade in endangered species, the Basel convention and the Cartagena Protocol on Biosafety³³ and others in a cluster on trade-related agreements; and fourth in a cluster of conventions that provide financial and technical assistance for developing countries. Such a system of multiple interrelated clusters is

not a workable blueprint for a strengthened system of global environmental governance. While the idea of clustering is sound, it needs to be pushed further towards an effective “clustering of the clusters,” that is, to the integration of these clusters into a comprehensive specialized UN environment agency.

Conclusion

In this chapter, I have argued that the establishment of a World Environment Organization would improve coordination of global environmental governance; would pave the way for the elevation of environmental policies on the agenda of governments, international organizations and private organizations; assist in developing the capacities for environmental policy in African, Asian and Latin American countries; and strengthen the institutional environment for the negotiation of new conventions and action programs as well as for the implementation and coordination of existing ones. Naturally, a WEO as outlined above cannot solve all problems of environmental degradation, but can only be a partial contribution. Yet this should not, I believe, result in a rejection of reform with the argument that improved governance is not “a puzzle of administrative efficiency [but] a challenge of global justice” and that global cooperation is not “a function of inappropriately designed organizations [but] a reflection of a fundamental absence of willingness on the part of states.”³⁴ It is, in most cases, both. Limited reform steps, such as improved regime design or more effective international agencies, will be influenced by the larger context of state power and global inequalities in the same way in which implementing major reforms requires solving myriad smaller questions. Analysts of global governance need to focus on the bigger questions, but also on the details—including the underlying organizational structure of global environmental governance.

Of course, in the end, the key issue is less organizational design and more the political will of governments regarding how much authority and resources they wish to grant international organizations.³⁵ However, analysts can offer institutional formats through which decision-makers could best organize and coordinate their policies on international environmental issues. If governments chose to integrate various convention secretariats into a WEO, turf-battles would certainly emerge,³⁶ but these can be overcome if governments wish to do so, since it is governments who remain the principals of organizations, programs and conferences of the parties.

The resistance to any streamlining effort by interested actors—including the heads of the various convention secretariats, who are likely to lose influence - is a practical problem rather than a theoretical obstacle to delineating a mandate for a world environment organization. A WEO would not solve all problems, neither of industrialized countries nor of developing countries. But it would be an important institutional step in humankind's efforts to both equitably and effectively manage planet Earth.

Notes

- ¹ In mid-April 2007, the number of countries endorsing a UNEO have increased to 50. See Appendices I and II for a list with the "Friends of the UNEO" and the text of the Paris Appeal.
- ² For an overview see: Steffen Bauer and Frank Biermann, "The Debate on a World Environment Organization. An Introduction," in *A World Environment Organization. Solution or Threat for International Environmental Governance?* ed. F. Biermann and S. Bauer, 1–23 (Aldershot, UK: Ashgate, 2005b).
- ³ This text draws on my chapter in *A World Environment Organization* ed. Biermann and Bauer, 117–144 (2005b).
- ⁴ Including Sebastian Oberthür and Thomas Gehring, "Reforming International Environmental Governance: An Institutional Perspective on Proposals for a World Environment Organization," in *A World Environment Organization* ed. Biermann and Bauer, 205–234, (2005); and Adil Najam, "Neither Necessary, Nor Sufficient: Why Organizational Tinkering Will Not Improve Environmental Governance," in *A World Environment Organization* ed. Biermann and Bauer, 235–256, (2005).
- ⁵ Najam 2005: 243
- ⁶ Daniel C. Esty, "The Case for a Global Environmental Organization," in *Managing the World Economy: Fifty Years After Bretton Woods*, ed. P.B. Kenen, 287–309. Institute for International Economics, (Washington, DC, 1994); Daniel C. Esty, "Stepping Up to the Global Environmental Challenge," *Fordham Environmental Law Journal*, vol. 8 (1), (1996): 103–13.
- ⁷ Frank. Biermann, "The Rising Tide of Green Unilateralism in World Trade Law: Options for Reconciling the Emerging North-South Conflict," *Journal of World Trade*, vol. 35 (3), (2001b): 421–448.
- ⁸ Frank Biermann and Steffen Bauer, "Assessing the Effectiveness of Intergovernmental Organizations in International Environmental Politics," *Global Environmental Change. Human and Policy Dimensions*, vol. 14 (2), (2004a): 189–193; Frank Biermann and Bernd Siebenhüner, "Managers of Global Change: Core Findings of the MANUS Project," *Global Governance Working Paper No 25*. (Amsterdam etc.: The Global Governance Project, 2007.)
- ⁹ UNEP, "Implementing the Clustering Strategy for Multilateral Environmental Agreements—A Framework," UN Doc. UNEP/IGM/4/4 of 16 November, (2001a): par. 9.
- ¹⁰ Mukund G. Rajan, *Global Environmental Politics: India and the North–South Politics of Global Environmental Issues*, (Oxford University Press, Delhi, Calcutta, Chennai, Mumbai, 1997).

- ¹¹ e.g. Adil Najam, "The Case Against a New International Environmental Organization," *Global Governance*, vol. 9 (3), (2003): 367–84; and Najam 2005.
- ¹² Klaus Dingwerth, "The Democratic Legitimacy of Public-Private Rule-Making: What Can We Learn from the World Commission on Dams?" *Global Governance* 11: 1, (2005): 65-83.
- ¹³ Cf. WHO Constitution: "Article 21: The Health Assembly shall have authority to adopt regulations concerning: (a) sanitary and quarantine requirements and other procedures designed to prevent the international spread of disease; (b) nomenclatures with respect to diseases, causes of death and public health practices; (c) standards with respect to diagnostic procedures for international use; (d) standards with respect to the safety, purity and potency of biological, pharmaceutical and similar products moving in international commerce; (e) advertising and labelling of biological, pharmaceutical and similar products moving in international commerce. Article 22: Regulations adopted pursuant to Article 21 shall come into force for all Members after due notice has been given of their adoption by the Health Assembly except for such Members as may notify the Director-General of rejection or reservations within the period stated in the notice."
- ¹⁴ See e.g. Robert O. Keohane and Marc A. Levy eds., *Institutions for Environmental Aid: Pitfalls and Promise*, (Harvard University Press, Cambridge Mass., 1996); and Frank Biermann, "Financing Environmental Policies in the South. Experiences from the Multilateral Ozone Fund," *International Environmental Affairs*, vol. 9 (3), (1997): 179–218.
- ¹⁵ In 2002, the German Federal Minister for the Environment, Nature Conservation and Nuclear Energy, Jürgen Trittin, stated: "[T]he protection of global goods requires [...] additional funds. Protecting the climate, biodiversity and international water resources costs money, particularly in developing countries. For this reason, a global environmental institution should not be solely dependent on contributions from its member states. We should identify financial sources on the basis of the polluter-pays principle. Global goods are valuable, therefore they should not be used for free, as in air and maritime transport, for example. A price on these goods would reduce the level of use to a more tolerable one and would make global environmental institutions less dependent on contributions from nation states." Jürgen Trittin, "The Role of the Nation State in International Environmental Policy: Speech by the German Federal Minister for the Environment, Nature Conservation and Nuclear Energy," in *Global Environmental Change and the Nation State: Proceedings of the 2001 Berlin Conference on the Human Dimensions of Global Environmental Change*, ed. Biermann, Brohm and Dingwerth, 10–13. Potsdam Institute for Climate Impact Research, (Potsdam, 2002): 12.
- ¹⁶ Daniel C. Esty and Maria Ivanova, *Making Environmental Efforts Work: The Case for a Global Environmental Organization*, Working Paper 2/01, Yale Center for Environmental Law and Policy, (New Haven Conn., 2001); also Esty 1994, 1996.
- ¹⁷ Esty and Ivanova (2001) state that they "draw a conscious distinction between 'global' environmental concerns and the environmental problems of the 'world', which include many issues that span the globe but have only local impact." They do not define which environmental concerns they see as global and where they draw the line between local and global components. Deforestation, for example, is both local—when it comes to soil degradation—and global, when it comes to global climate change. River pollution is part of a global problem through the degradation of coastal waters and, to a much lesser extent, of the high seas. In a later section of their article, they write about "inherently global issues, e.g., those affecting the atmosphere, biodiversity, and the oceans," without elaborating on the question of whether this includes issues such as local farming practices, which affect at the same time the climate (e.g., methane

emissions), biodiversity and the seas (river pollution).

¹⁸ Esty and Ivanova (2001), for example, explicitly state (at p. 13) that “activities aimed at local issues (provision of drinking water, wastewater treatment, land management, air pollution control, etc.) should be undertaken by national governments supported by UNDP, the World Bank, and other development entities.” This would effectively leave policies on the most pressing environmental problems in the South to their own national governments, whereas global issues—that also affect industrialized countries—would be elevated to a stronger and more visible international status. For developing countries, such differentiation is hardly acceptable.

¹⁹ UNEP 2001a: par. 25.

²⁰ Of course, as argued by Charnovitz 2002, one could agree on defining an organization with a universal mandate that includes local and transnational issues, and still keep the acronym GEO, which has, admittedly, the advantage of positive public associations with the ancient Greek word for (the goddess) Earth. It could well be possible to negotiate a constitutive legal agreement for an organization that would include local issues, but would bear the title GEO because of the superior connotations of the term. The adjective “global” in GEO would then simply take a different meaning from its use in the GEF. For the current debate, however, it seems advisable to maintain the differentiation between “world” and “global” environment organization, since fundamentally different concepts are implied. Steve Charnovitz, “A World Environment Organization,” *Columbia Journal of Environmental Law*, vol. 27 (2), (2002): 321–57.

²¹ South Centre, “For a Strong and Democratic United Nations: A South Perspective on UN Reform,” South Centre, Geneva, 1996.

²² Biermann 2002a for further references.

²³ Steve Charnovitz, “Toward a World Environment Organization: Reflections upon a Vital Debate,” in *A World Environment Organization*, ed. Biermann and Bauer, 87–115, (2005).

²⁴ Calestous Juma, “Stunting Green Progress,” *Financial Times*, July 6, 2000; and George F. Kennan, “To Prevent a World Wasteland: A Proposal,” *Foreign Affairs*, vol. 48 (3), (1970): 401–413.

²⁵ This section draws on, and has further been elaborated in Biermann and Bauer, 2004b.

²⁶ see also Charnovitz, 2005.

²⁷ e.g. Anil Agarwal, Sunita Narain and Anju Sharma, *Green Politics: Global Environmental Negotiations*, Centre for Science and Environment, (New Delhi, 1999).

²⁸ Biermann 2002b.

²⁹ Since 1994, GEF decisions require a two-third majority that must include sixty per cent of the states participating and sixty per cent of the financial contributions. In effect this North-South parity-based process grants both developing and industrialized countries effective veto rights.

³⁰ Admittedly, decision-making procedures based on North-South parity are problematic, especially when it comes to the question of which country belongs to which group (and who will decide this). Singapore, for example, is still seen as a developing country even though its national per capita income is higher than that of many industrialized countries. The Montreal Protocol uses an issue-based classification scheme that draws a line between developing countries that consume less than 300 gram chlorofluorocarbons per person and year, and all other countries (thus placing for example Kuwait in the group of industrialized countries) (Biermann 1997). Such issue-based classification, however, cannot be applied for a world environment organization meant to address all environmental issues. It seems that the second-best option remains

the self-definition of states, as known from the UN General Assembly, with the expectation that certain developing countries—especially those that wish to join the OECD—will assume the respective additional responsibilities in international organizations, too.

- ³¹ see UNEP 2001a; Oberthür 2002; von Moltke, Konrad, “Clustering International Environmental Agreements as an Alternative to a World Environment Organization,” in *A World Environment Organization*, ed. Biermann and Bauer, 175–204, (2005).
- ³² This cut slightly differs from deliberations in the UNEP group of environment ministers working on international environmental governance. Here, ministers have identified three possible methods of clustering: (1) at the thematic level (of issue-specific multilateral environmental agreements such as the chemical conventions, the biodiversity-related conventions, the regional seas conventions, and others); (2) at the functional level (functions such as reporting, capacity-building, trade policies, et cetera); and (3) at the regional level. See UNEP 2001a: par. 23 et seq.
- ³³ On the trade-related aspects of the Cartagena Protocol on Biosafety to the biodiversity convention, see Aarti Gupta, “Governing Trade in Genetically Modified Organisms: The Cartagena Protocol on Biosafety,” *Environment*, vol. 42 (4), (2000): 23–33.
- ³⁴ Najam 2003.
- ³⁵ Another issue are the conditions for, and processes through which major reforms of the UN system in general and specific policy sectors can be achieved, e.g. regarding questions of the relevant actors, power distribution and interests. This set of questions is beyond the scope of this chapter, but is being currently analyzed by the MANUS research group (“Managers of Global Change: Effectiveness and Learning of International Environmental Organizations”) within the international Global Governance Project GLOGOV.ORG. See Biermann and Bauer 2004a, 2005; and Biermann and Siebenhüner 2007.
- ³⁶ Peter Newell, “New Environmental Architectures and the Search for Effectiveness” *Global Environmental Politics*, vol. 1 (1), (2001): 35–44; and Oberthür and Gehring (2005).