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# The Quest for a United Nations Specialised Agency for the Environment

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**ABSTRACT** *Recent years have seen intense intergovernmental deliberations on issues concerning governance in the field of environment. Their aim has been to address the role of the institutions that provide platforms for international environmental cooperation. There are two main lines of enquiry: the role of regime-specific institutions that cater to sectoral regulatory frameworks (popularly known as multilateral environmental agreements, or MEAs); and the role of institutions that are established to follow up on global environmental conferences or a specific environmental task. Most of these institutions reflect intergovernmental consensual process. However, there are concerns about their proliferation and there is a growing cacophony of calls to 'bring coherence to the fragmented landscape of MEAs, intergovernmental bodies, UN system entities and other international organizations' (Sha Zukang (2011) 'Legal and policy dimensions of sustainable development: expected contribution of Rio + 20', *Environmental Policy and Law*, 41(6), pp. 244–246, at p. 245). In fact the need to bring order to environmental governance has assumed great importance and urgency if environmental cooperation is to be achieved. This paper explores, in particular, the role of the United Nations Environment Programme and its potential for conversion to a specialised agency of the UN.*

**KEY WORDS:** United Nations Environment Programme, governance, environment, Commonwealth, *Rio + 20 Conference*, multilateral environmental agreements, Töpfer Task Force

## The Governance Debate

Concern about international environmental governance (IEG) gathered pace when the United Nations Environment Programme Governing Council (UNEP GC) decided to 'revitalise'<sup>1</sup> itself in 1997. Convinced that a strong, effective and revitalised UNEP was essential in efforts to reverse environmentally unsustainable trends, the Council declared: '... the United Nations Environment Programme has been and should continue to be the principal United Nations body in the field of the environment and we, the ministers and heads of delegation ... are determined to play a stronger role ... [The] United Nations Environment Programme is to be the global environmental authority that sets the global environmental agenda ... and that

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serves as an authoritative advocate for the global environment ...’ After a series of reports, intergovernmental ministerial meetings and consideration at the UN General Assembly (UNGA) and the UNEP GC,<sup>2</sup> the matter received a sudden boost in January 2006 when the President of the UNGA, Jan Eliasson, sought to follow up the 2005 World Summit Outcome.<sup>3</sup> It led to the launch of an Informal Consultative Process on the Institutional Framework for the United Nations Environmental Activities led by the Permanent Representatives of Mexico and Switzerland to the UN.<sup>4</sup>

Around the same time, the UN Secretary-General also announced the establishment of a High-level Panel on UN System-wide Coherence in the Area of Development, Humanitarian Assistance and the Environment.<sup>5</sup> The panel emphatically recommended that ‘UNEP should be upgraded and have 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>6</sup>

Whether to upgrade UNEP or to replace it with a new specialised agency<sup>7</sup> for the environment has, however, remained contentious between governments, scholars and civil society. Decisions will be taken at the *Rio + 20 Conference*, 20–22 June 2012, but at the time of writing the zero draft conference statement contains options for decisions on each side.<sup>8</sup>

## **The Issues**

There are over 500 multilateral environmental agreements (MEAs) and specialised institutions grappling with governance of environmental problems ranging from loss of wetlands to ozone depletion, and climate change to persistent organic pollutants. In general these institutions have been established through ad hoc, diffuse and somewhat chaotic processes, generally following the essentially random emergence of environmental issues on to national and international political agendas.<sup>9</sup>

Since the early 1970s a large number of MEAs in the areas of ocean, atmosphere, nature, waste, fisheries and chemicals have established institutional arrangements comprising a conference or a meeting of the parties (COP/MOP) with decision-making powers, a secretariat and specialised subsidiary bodies.<sup>10</sup> These institutions are regarded as ‘treaty bodies’ in the sense that they do not constitute traditional intergovernmental organisations (IGOs). Not only are they distinct both from the state parties to a particular agreement and the existing IGOs, but in many cases they also have their own law-making powers and compliance mechanisms.<sup>11</sup> These treaty organs have become international environmental institutions (IEIs), fulfilling a range of functions, including: awareness raising and agenda setting; collecting, processing and disseminating information; setting international standards and regulations; capacity building and provision of financial and technical assistance; and avoiding and settling disputes.<sup>12</sup>

There has been growing concern in the past decade over the proliferation of these legal and institutional arrangements. Most IEIs have earnestly sought to fulfil their mandates to protect the environment, but it is increasingly apparent that their fragmented and uncoordinated nature causes duplication and inefficiency, and renders them inadequate to meet the environmental challenges of the 21st century. The main

concerns are lack of a functional framework for coordinated international action, and consequent inefficient use of the limited resources available for environmental protection.<sup>13</sup> This lack of coherence can be attributed to the complexities of the environmental issues involved, and to the *sui generis* nature of the international environmental law-making process. There is a growing acceptance that better governance could be achieved by establishing inter-linkages and synergies between multilateral institutions, and/or the creation of new or reformed institutions. For example, Chapter 38 of Agenda 21 called for restructuring and revitalisation of the UN system to implement Agenda 21 and other conclusions of the *UN Conference on Environment and Development* (UNCED).<sup>14</sup>

### **Quest for an Environmental Entity**

As we raise a toast to the 40th anniversary (in June 2012) of UNEP, it is pertinent to consider its provenance and purpose. As a result of the 1972 Stockholm *UN Conference on the Human Environment* (UNCHE), the UNGA created UNEP as a new quasi-autonomous entity to serve as a focal point for environmental action and coordination within the United Nations system. Its mandate is to develop environmental policy consensus by keeping the global environment under review and bringing emerging issues to the attention of governments and the international community for action.<sup>15</sup> As it was designed as a *programme*, the enabling UNGA resolution described it merely as 'institutional and financial arrangements for international environmental cooperation'. The 58-member UNEP GC was given a mandate that includes promotion of 'international cooperation in the field of the environment' and to provide 'general policy guidance for the direction and coordination of environmental programmes within the United Nations system'.<sup>16</sup>

The Stockholm mandate required UNEP to act as a coordinator of activities and programmes within the UN as well as a trigger for international environmental cooperation. It reports to the UNGA through the Economic and Social Council (ECOSOC) and, despite some success, UNEP has always been denied the status of a 'specialised agency' (as per Articles 57 and 63 of the UN Charter) on the specious ground that such an 'agency for the environment would result in duplication of activities and would compound already serious problems of coordination'.<sup>17</sup> Although UNEP lacks the legal status of an independent international organisation, it does have some measure of international legal personality because it is required to fulfil certain tasks on the international plane (such as entering into headquarters agreement with Kenya, the host country).

Notwithstanding the creation of UNEP, international environmental organisations such as the Commission on Sustainable Development (CSD), specialised agencies, treaty-based organs, functional commissions, regional commissions and other programmes continued to multiply within the UN system, particularly after the 1992 Rio Earth Summit, which sought to 'green' the existing UN system. Ironically, these have contributed to the dilution of UNEP's mandate and authority.

This expansion might be testimony to the need for environmental action but, less helpfully, also reflects an instinct for survival. It has been argued that a number of UN agencies charged with aiding economic development felt threatened by the impact of the new interest in environmental protection, and this led them to

reorganise their programmes in order to protect their budgets and preserve the integrity of their mandate.<sup>18</sup> It has also been argued that it made. For this argument, see generally, Konrad von Moltke (2001) 'The organization of the impossible', *Global Environmental Politics*, 1(1), pp. 23–28. As a result of these undercurrents within the UN system, UNEP was denied specialised agency status and it became an inexplicable exception for such a functional environmental organisation.

### **Crisis of 'Environmental Conscience'**

Over the four decades of its existence, UNEP seems to have 'attained considerable success in galvanizing action on international environmental concerns, and laying down the threshold of environmental behaviour'.<sup>20</sup> Even within the narrow confines of its mandate, UNEP has catalysed preparations for many MEAs, including two of the instruments adopted at the 1992 Rio Earth Summit: the Convention on Biological Diversity (CBD) and the UN Framework Convention on Climate Change (UNHCCC). At the behest of a resolution (1988) of the UNGA, UNEP and the World Meteorological Organisation (WMO) have also co-sponsored the Intergovernmental Panel on Climate Change (IPCC), and UNEP provided substantive support and expertise for the conclusion of the 1994 Convention to Combat Desertification (CCD). It possesses a 'jewel in the crown', known as the Regional Seas Programme, in which 18 regions manage a web of a staggering 50 instruments.<sup>21</sup> UNEP is the host institution for five MEAs, including the 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the 1979 Convention on the Conservation of Migratory Species of Wild Animals (the Bonn Convention), the 1985 Vienna Convention and the 1987 Montreal Protocol on the Depletion of the Ozone Layer, the 1989 Basel Convention on Transboundary Movements of Hazardous Wastes and their Disposal, and the CBD.

In spite of these achievements, it is widely felt that UNEP's ability to set the global environmental agenda is severely constrained by its organisational structure, unpredictable funding, institutional clogging of the environmental field and lack of political confidence of some key UN member states. The gradual inroads made into environmental matters by other agencies of the UN system, as a peripheral concern within their own functional jurisdiction, has also contributed to the dilution of UNEP's authority. In short, in the euphoria of the 1992 Rio Earth Summit, UNEP was relegated to the background and became a cog in the larger UN machine rather than an effective environmental conscience-keeper of the UN.

### **Efforts to Revitalise the UNEP**

With this backdrop of a simmering environmental governance crisis, declining funding, erosion of authority and perception of weakness, serious efforts were made by the UNEP GC to revitalise UNEP. After the adoption of the 1997 Nairobi Declaration by the Council, a Töpfer Task Force was created by the UN Secretary-General in early 1998, which reported to the UNGA in June 1998.<sup>22</sup> The UNGA, through a landmark resolution,<sup>23</sup> gave direction for a series of institutional steps both within the UN Secretariat as well as at the intergovernmental level. It brought into being two new arrangements, namely the Environmental Management Group

(EMG) for inter-agency environmental coordination within the UN system (modelled on the UN Development Group) and the Global Ministerial Environment Forum (GMEF) for high-level policy dialogue. The GMEF was to be an extended UNEP GC meeting at ministerial level. Thus, the UNGA—like the conductor of a grand orchestra—provided overarching guidance to the entire process, coupled with crucial policy direction.

These policy initiatives were the culmination of a long-held view that any major change in UNEP's situation would require high-level ministerial intervention. The launch of the GMEF was a bold political initiative to revive the sagging fortunes of UNEP and an attempt to regain policy coherence in the field of the environment. In the post-Johannesburg Summit decade (2002–2012), states face a litmus test of their determination to grapple effectively with the problems afflicting environmental governance.

UNEP has largely driven these processes, but has nevertheless been criticised for its inability to address its mandate as a catalyst for international cooperation in addressing environmental issues. This problem can be largely attributed to the growing complexities of environmental problems, coupled with UNEP's small secretariat, inadequate and unpredictable funding, difficulties relating to location of its headquarters in Nairobi, perceived lower voice of its Executive Director in the UN Secretary-General's cabinet, the lower status of environmental matters in the over-crowded schedule of the Second Committee of the UN General Assembly, and duplication of its functions with other UN organs.<sup>24</sup> This diagnosis of the governance problems of the UN's premier environmental programme has thrown up a host of issues concerning the possible options and remedies to address the malaise.

### **Can There be a Specialised Agency?**

In institutional terms, a reformed UNEP with universal membership could emerge as a global environmental forum to address governance problems and the expectations of UN member states. This vital reform, coupled with adequate, stable and predictable funding, could provide a natural route for elevating UNEP to the level of a UN specialised agency. Proposals on the table include a UN Environment Protection Organisation (UNEPO; favoured by this writer)<sup>25</sup> or UN Environment Organisation (UNEO; favoured by the European Union). There are already strong undercurrents that favour such an upgrade of UNEP, as shown by deliberations at the recent UNEP GC Global Ministerial Environment Forum meetings in Nairobi (2007) as well as Monte Carlo (2008).

The advantages and disadvantages of a specialised agency for environment protection now need to be considered. The core question is whether to elevate UNEP's status or carve out a new global organisation. The history of institution building not only shows how difficult and cumbersome it is to create a new entity (implicitly jettisoning the existing UNEP), but also reminds us that a brand new entity such as a World Environment Organisation (WEO)<sup>26</sup> would not necessarily be more effective than UNEP.

UNEP's remarkable performance during 1972–1992, when many important treaties were agreed, shows how, in practical terms, it can almost work as a WEO.

Nevertheless, to impart credibility and authority to this beleaguered entity in the midst of a perceived widening global environmental crisis, several elements are needed if UNEP is to emerge as a specialised agency. If form and perception are key factors in determining the authority of a robust international environmental institution amidst the multiplicity of actors, UNEP would qualify for that through the trappings of a UN specialised agency in the form of UNEPO. This model, devised in 1999, would provide UNEP with the effective institutional wherewithal to address global environmental problems. The UNEO model mooted by the European Union in 2005 has striking similarities (see Table 1).

There appears to be an urgent need to strengthen the UN's environmental institutional framework and augment coordination so as to avoid duplication and wastage of resources. UNEP—being UN's environmental conscience—has the best credentials to spearhead the process. Given the political will and emergence of consensus among key sovereign actors, there is strong justification—and growing support of more than 50 states—for UNEP's upgrade to a UN specialised agency. The exact structure would be drawn from experience and existing models, adjusted to meet the expectations of the sovereign states, supported by the necessary resources and structure.

The UNEPO proposal comprises a plenary body (General Conference/Council), subsidiary organs such as a Science and Technology Council, Environmental Policy & Law Council, Environmental Emergencies Relief Council and a Bureau, as well as a Secretariat headed by a Director-General (see Figure 1). For practical reasons, UNEPO could be established through an upgrade of UNEP, agreed by a resolution of the UNGA, or an intergovernmental treaty. Nairobi should remain the location of the headquarters, this being the only such major UN entity in a developing country. Its funding contributions would follow the UN scale of assessments or the current pattern of a voluntary indicative scale of assessment.

Any such exercise will need to remain within the UN system for credibility and wider acceptability. The process, content and range of subsequent institutional restructuring will depend upon the political will of the sovereign states. Certainly, efficiencies could be obtained through mergers of some existing UN environmental departments and programmes with the new specialised agency. Future direction will be dictated more by the political will of States, how far they wish to go in the process, how best they want to translate their international environmental commitments into action, and how much they are willing to allow transparency in the functioning of different international institutional structures in order to address the global environmental challenge.

### **Whither International Environmental Governance?**

As today's architects of reform seek to improve the complex system of global environmental governance, they face the task of rethinking the existing structures to address global environmental problems. While the scope and scale of environmental concerns have changed and actors in the environmental field have proliferated, the crux of the debate remains the same—how does the international system implement an effective environmental policy that takes into account the concerns of developed and developing countries? In this regard, the contemporary process of consultations

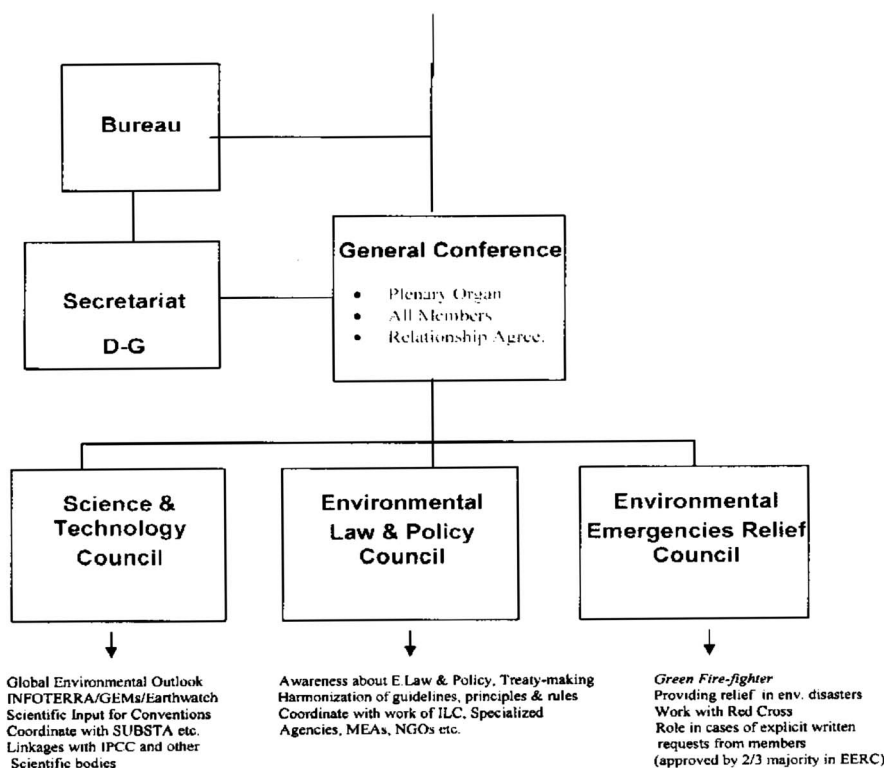


**Table 1.** Comparison of Proposals on a UN 'specialized agency' for the environment.

Proposal/ recommendation	Name	Structure	HQ Location	Mandate	Funding
Bharat H. Desai (1999) [Originally made on 15 January 1999 at the World Bank, D.C.; revised 2000]	United Nations Environment Protection Organization (UNEP) • by elevating UNEP • Specialized Agency	<ul style="list-style-type: none"> <li>General Conference</li> <li>Science &amp; Technology Council</li> <li>Envir'l Policy &amp; Law Council</li> <li>Environmental Emergencies Relief Council</li> <li>Bureau and Secretariat with D-G</li> </ul>	Developing country; Nairobi could continue as HQ	<ul style="list-style-type: none"> <li>A truly global environmental forum that reflects the wishes and expectations of all members of the United Nations.</li> <li>Law-making, scientific assessment, environmental emergencies relief</li> </ul>	Adequate, stable and predictable funding based on voluntary indicative scale of assessment.
European Union (2005) [Contribution to UN General Assembly Informal Consultation Co-Chairs; 20 April 2007]	United Nations Environment Organization (UNEO) • by upgradation of UNEP • Specialized Agency	<ul style="list-style-type: none"> <li>Plenary Body with open membership to UN members</li> <li>Executive organ</li> <li>Secretariat, headed by D-G</li> <li>Regional Offices</li> <li>Consultative Boards</li> </ul>	Nairobi to be the first UN specialized agency headquartered in a developing country	<ul style="list-style-type: none"> <li>Environmental Pillar of the UN with a revised and strengthened mandate.</li> <li>Authoritative body on the global environment.</li> </ul>	Adequate, stable and predictable resources as well as ability to respond to environmental emergencies. Execute priority programmes through core budget.



**Structure of the  
United Nations Environment Protection Organization [UNEPO]**



**Figure 1.** Structure of the United Nations Environment Protection Organisation.

among governments is actively searching for innovative ways to reform the governance architecture for the environment.

Two reform initiatives for the global environmental governance architecture are currently under way at the United Nations: (1) the implementation phase of the recommendations of the High-level Panel on UN System-wide Coherence; and (2) the informal consultations on international environmental governance held under the auspices of the UN General Assembly. These policy debates seek to outline an optimal institutional form and function for the global environmental governance system.

The UN General Assembly President mandated an Informal Consultation Process (co-chaired by UN Permanent Representatives of Mexico and Switzerland) to carry out extensive consultation with UN member states as well as other institutions and experts. This has enabled them to produce (14 June 2007) an options paper on key issues. The said paper in fact sought to analyse weaknesses of the existing system and suggested seven 'building blocks' for a strengthened international environmental governance system. The co-chairs also proposed that by the end of the 62nd session of the UN General Assembly, terms of reference could be decided for formal negotiations on 'transformation' of the IEG system.

The proposal for UNEP's upgrade to a specialised agency (UNEPO) as well as a wide range of issues coming within the rubric of international environmental governance was presented by the author before the co-chairs on 26 November 2007 in New York. The presentation recommended a central environmental institutional structure (UNEP), improved synergies and inter-linkages between MEAs, and an environmental 'supervisory' organ at the UN headquarters (e.g. revival of the Trusteeship Council). In addition, a detailed presentation was made on this writer's 1999 proposal for an upgrade of UNEP into a UN specialised agency to be called UN Environment Protection Organisation (UNEPO). It emphasised the necessity of carving out an institutional structural for environmental governance, and presented UNEP's challenges, including misconceptions about its role, 'dwarfing' of UNEP, difficulties in coordinating the UN's environment-related institutional structures, and declining voluntary financial contributions to UNEP by member states in the post-1992 Rio Earth Summit period. In this context the Global Ministerial Environmental Forum/Tenth Special Session of UNEP GC at Monaco (2008) provided some support for strengthening IEG as rooted in the Cartagena Package of 15 February 2002<sup>27</sup> and the 'need for and modalities of a possible resolution by the UN General Assembly'. It was expected that the informal consultation co-chairs would provide input for the proposed General Assembly resolution that could set the format for future talks. It seems, however, that in spite of best efforts, many of the key states were wary of such a move. As such the co-chairs had to abandon their effort and seek further political guidance. In fact, noticing that an 'attempt to find a decision increased the difficulties in finding consensus', the co-chairs in a sense of exasperation declined to call consultations and presented their final report (10 February 2009).<sup>28</sup>

In the aftermath of this disappointment the UNGA mandated an informal consultation process and the baton was passed back to UNEP GC, which adopted decision 25/4 (20 February 2009)<sup>29</sup> and decision SS. XI/1 (26 February 2010)<sup>30</sup> to establish a regionally representative Consultative Group of Ministers or High-level Representatives. It met in Nairobi (7–9 July 2010) and in Espoo (21–23 November 2010) with the participation of 58 and 44 countries, respectively.<sup>31</sup>

The churning that took place during this tortuous process emphatically endorsed consensus that in reforming international environmental governance, form must follow function. The suggestions on the table include: enhancing UNEP; establishing a UN specialised agency; and enhancing institutional reforms and streamlining existing structures. It was suggested that incremental changes could be considered alongside more fundamental reforms. The outcome of the process was expected to feed into the work of the 26th UNEP GC, 65th UN General Assembly session and the Prep-Com for the *UN Conference on Sustainable Development (Rio + 20)*. Thus, the concerted intergovernmental deliberations have continued, but they are yet to lead to a way out of the impasse.

## **Conclusion**

There is an urgent need to strengthen the UN's environmental institutional and governance framework and to augment coordination in order to address global environmental challenges, while avoiding duplication and waste of resources.

UNEP—being UN's environmental conscience—has the best credentials to spearhead this vital process. Given the political will and consensus among key sovereign actors, there appears to be strong justification—and the growing support of more than 50 states—for UNEP's upgrade to a UN specialised agency. While building on past experience, the proposed structure will need to be *sui generis* in view of the nature and uniqueness of this functional area. The contours of the new entity must emerge on the basis of expectations of the sovereign states.

As the plenary organ of the UN, the General Assembly will need to step in to address the complexity of the institutional dimensions of international environmental governance. It remains to be seen whether the *Rio + 20* (UNCSD) triggers this process, and provides a way forward in the jigsaw of environmental governance for our common future in the 21st century.

The general aversion to creation of new international institutions is partly due to the criticism of UN bureaucracy and funding implications. It has been felt that an autonomous character of the institution would be able to make it more efficient as well as result-oriented and not merely a talk shop or a turf for politicking. There have also been apprehensions over the voting method, as anything less than one-state-one-vote would be regarded as undemocratic and jeopardize wider political support among states. Some the developing countries have, however, expressed concern that institutionalizing global environmental governance will result in 'stricter environmental standards (green protectionism)',<sup>32</sup>.

The powerful states favor strong international institutions especially if their decision-making structures are either based upon weighted voting or are likely to help in maintaining their interests. The system of specialised agencies within the UN has occasionally come under severe strain in view of the clash of interests of states. In fact powerful states, contributing substantial sums to budgets, felt exasperated and withdrew from some institutions since they could not have their view prevail, as it happened in the case of UNESCO<sup>33</sup>. Some of the specialized agencies have come under pressure to undergo 'restructuring', including change of chief executive officers.

Under these circumstances, the merits and demerits of having specialized agency for environment protection will need to be considered in terms of possibility of improvement over the existing situation. The core issue in the matter revolves over the desirability of enhancing UNEP's status or carving out a new organization altogether. The institution-building history shows that it is difficult to negotiate wholly a new international organization. Therefore, enhancing UNEP's status through an international agreement could be a preferred option. The process of institutional restructuring will depend upon the political will of the states, which may reflect in a merger of some other UN departments and programmes in the new organization with UNEP at its core.

### *New Structure*

Various suggestions have been put forward on nomenclature of the new organization, ranging from an international (world) environmental organization to world environment and development organization. It appears that the primary purpose of such a specialized agency could be to enhance the UNEP's status and authority. Thus, any sculpting of a new institution would comprise of UNEP at its

core. The question of merger of other existing organs and programmes (such as CSD, UNDP etc.) would depend upon the extent to which states prefer to make the exercise ambitious.

At the minimum level, a new institutional structure should result in an enhancement of UNEP's status from a UN *programme* to that of a *specialized agency*. It would be ideal if the Millennium General Assembly meet seriously reviews the requirements for a 'reatly strengthened institutional structure for international environmental governance', as called upon by the first meeting of the GMEF. It would be appropriate if the Assembly decides this issue and provides mandate for the purpose. The mandate could be assigned to an intergovernmental negotiating committee on revitalizing international environmental institutions. The INC can work on a draft of constituent instrument for a new specialized agency. The constituent instrument could be adopted at a conference of plenipotentiaries. It can give shape to a United Nations Environment Protection Organization (UNEPO), wherein the existing UNEP could merge.

The new organization's constituent instrument could provide for a plenary organ which may be known as the General Council (GC) and a Bureau, apart from other functional organs such as Science & Technology Council (STC), Environmental Law Council (ELC), Environmental Emergencies Council (EEC) as well as a Secretariat headed by the Director-General (see **Figure I**). In the case of the GC, it will be the plenary organ and its membership can comprise *all* the members of the organization. It will be the supreme decision-making body of the UNEPO and based upon the one-state-one-vote principle. The GC would constitute a small Executive Committee or Bureau of about ten states and act under the authority delegated by it. In respect of membership of other functional organs, they may comprise a limited number of member states, which may vary between 24 to 60. The election of members of these organs can be by rotation, with one-third members retiring every two years. The STC and ELC can be technical bodies, consisting of experts, who can be nominated by the states. The STC may be designed to address science and technology issues. It can maintain crucial interaction with bodies such as Subsidiary Body for Science and Technology Advice (SBSTA) of convention secretariats as well as professional bodies like the Inter-governmental Panel on Climate Change (IPCC).

The STC can provide vital scientific input on which decisions of policy-making organs can rest. Such input will also be crucial for the in-built law-making processes of the Conference of Parties (COPs) of various convention secretariats. Similarly, the ELC's primary task can consist of maintaining coherence in the progressive development of international environmental law. It can launch new initiatives for environmental law awareness, supervise developments in *soft* law and examine the need for appropriate hard instruments from time to time. The ELC's role will be crucial in imparting planned development of international environmental law in consonance with changing needs.

The third functional organ EEC's main task can be to address environmental emergencies. As such, it can perform the task of international *green* firefighters. It can rush assistance to victims of environmental catastrophes, such as oil pollution disasters, forest fires, transfrontier pollution (air, water, radiation etc.), major industrial accidents and natural disasters (earthquakes, cyclones, floods etc.). It can maintain close liaison with the International Committee of the Red Cross (ICRC) to

provide succor to the victims of such emergencies. However, the EEC can act only subject to the explicit written request from the affected member state as well as approval by two-thirds of EEC's total members. The representatives of members of the EEC will be accessible at very short notice to facilitate quick decisions in such cases. In order to prevent any possible misuse, the work of the EEC will need to be strictly confined to redressing the environmental calamity with its expertise as well as providing relief (such as relocation, rehabilitation) to the affected people. It will not go into the issues of liability and compensation, which must necessarily be dealt separately within the framework of international instruments. The Director-General would head a small and efficient secretariat to cater to the needs of the UNEPO.

The funding of the new organization can be worked out on the same pattern of scale of contributions of the United Nations and other specialized agencies. The predetermined allocation of members' contributions will ensure stability in the functioning of UNEPO, as compared to the voluntary Environment Fund of UNEP.

## Notes

1. Nairobi Declaration adopted by UNEP Council vide decision 19/1 of 7 February 1997. See [http://www.unep.org/newyork/Portals/129/docs/1997\\_nairobi\\_declaration.pdf](http://www.unep.org/newyork/Portals/129/docs/1997_nairobi_declaration.pdf), accessed 19 December 2011.
2. Included Töpfer Task Force Report (1998); UNGA resolution 53/242 of 10 August 1999; Malmö Ministerial Declaration (2000); Cartagena Report of the Open-ended Intergovernmental Group of Ministers or their Representatives on International Environmental Governance (2002).
3. UNGA resolution 60/1 (2005 World Summit Outcome) was adopted 16 September 2005; see UN Doc. A/RES/60/1, 24 October 2005, pp. 1–38.
4. <http://www.un.org/ga/president/60/summitfollowup/index.html>
5. In pursuance of the mandate of the 2005 World Summit Outcome, UN Secretary-General Kofi Annan communicated (on 15 February 2006) establishment of the High-level Panel, co-chaired by Prime Ministers of Norway, Pakistan and Mozambique (plus 12 others), to Jan Eliasson, President, UNGA.
6. United Nations, *Delivering as One: Report of the Secretary-General's High-Level Panel on UN System-wide Coherence in the Areas of Development, Humanitarian Assistance and the Environment*, 9 November 2006, New York, pp. 1–42 at p. 6.
7. The UN Charter has institutionalised a system of 'specialised agencies' established by an 'intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments in economic, social, cultural, educational, health, and related fields' (Article 57). These agencies are brought into relationship with the UN in accordance with Article 63 of the UN Charter. Hence they are referred to as specialized agencies.
8. The Future We Want—Zero draft of the outcome document, <http://www.uncsd2012.org/rio20/index.php?page=view&type=12&nr=324&menu=23>, accessed 15 January 2012.
9. UNU Report, *International Environmental Governance—The Question of Reform: Key Issues and Proposals Preliminary Report* (UNU/IAS, March 2002).
10. Discussed by R. R. Churchill and Geir Ulfstein (2000) 'Autonomous institutional arrangements in multilateral environmental agreements: a little-noticed phenomenon in international law', *American Journal of International Law*, 94, pp. 623–659; V. Röben (2000) 'Institutional developments under modern international environmental agreements', *Max Planck Yearbook of United Nations Law*, 4, pp. 363–443.
11. Churchill and Ulfstein (2000, p. 623).
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