Strengthening IEG by Reforming Existing UN Bodies

Chad Carpenter
Preface

This paper is part of series of working papers that represents one of the first outputs from a two-year United Nations University Institute of Advanced Studies project on International Environmental Governance Reform, being conducted in collaboration with Kitakyushu University, Japan, and with support from The Japan Foundation Center for Global Partnership.

The project was initiated in response to increasing calls, from both within the UN and from external sources, for a more detailed analysis of the current weaknesses and gaps within the existing system of international environmental governance (IEG) and a more elaborate examination of the various proposals that have been put forward for reform. In responding to these calls, the project has drawn upon the expertise of several renowned academics and practitioners in the fields of international environmental law, science, economics, political science, the humanities, and environmental politics.

The first section of the project focuses on the identification of weaknesses and gaps within the current system of international environmental governance. The individual research papers commissioned within this section have concentrated on six key aspects of international environmental governance: the inter-linkages within the environmental governance system; the science/politics interface; industry/government partnerships for sustainable development; the participation of NGOs and other civil society representatives; the interaction between national, regional, and international negotiation processes; and the role of international institutions in shaping legal and policy regimes.

The second section of the project elaborates upon specific reform proposals that have been generated throughout recent debates and evaluates the potential of each proposal to strengthen the existing IEG system. The papers commissioned within this section of the study have focused on exploring the potential advantages and disadvantages of specific reform models and explained, in detail, how each model may be structured and how it would function. The models of reform that have been explored include: clustering of MEAs; strengthening UNEP; expanding the role of the Global Ministerial Environment Forum (GMEF); reforming existing UN bodies; strengthening financing sources and mechanisms; building up the environmental competence of the World Trade Organization (WTO); different possible models for a World Environment Organization; reforming the UN Trusteeship Council; expanding the mandate of the UN Security Council; and establishing a World Environment Court.

The final section of the project combines insights gained through the first two sections in order to provide an in depth evaluation of current reform proposals, elaborate on how they may resolve current gaps and weaknesses, and offers alternative recommendations for reform.
For more information relating to the International Environmental Governance Reform Project and for details of related publications, please visit the United Nations University Institute of Advanced Studies website at http://www.ias.unu.edu or contact Shona E.H. Dodds dodds@ias.unu.edu or W. Bradnee Chambers chambers@ias.unu.edu or visit The Japan Foundation Center for Global Partnership website at http://www.cgp.org/cgplink/ or contact Norichika Kanie kanie@kitakyu-u.ac.jp

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STRENGTHENING IEG BY REFORMING EXISTING UN BODIES

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Abstract

This paper explores the possibility of reforming existing UN bodies—in particular the Commission on Sustainable Development (CSD), the Economic and Social Council and the General Assembly—in an effort to build greater coordination and coherency among environment-related UN activities. It elaborates on the specifics of selected proposals and the comparative advantages and disadvantages of each reform. The paper concludes by analyzing how a reformed CSD—with a systemically focused mandate, a clear role for decisions, and a work programme developed in tandem with two other relevant commissions—could serve to improve the functioning of the international environmental governance system as a whole.
# STRENGTHENING IEG BY REFORMING EXISTING UN BODIES

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Introduction

The international community, in the past decade, has expressed growing concern over the proliferation of international legal and institutional arrangements aimed at addressing specific environmental problems. This concern centers not only on establishing a functional framework for coordinated international action but also for maximizing the limited resources available for environment protection. Recently, the Secretary-General of the United Nations established a Task Force on Environment and Human Settlements as part of the overall reform of the United Nations and noted the formidable challenge facing the international community in attaining “a sustainable equilibrium between economic growth, poverty reduction, social equity and the protection of the Earth’s resources, common and life support systems.” He also concluded that experience had demonstrated the need for a more systemic approach to policies and programmes through mainstreaming the United Nations commitment to sustainable development.

In turn, the General Assembly adopted resolution 53/242 on the Secretary-General’s Task Force recommendations and took action on a number of important institutional measures including the creation of the Environmental Management Group, the creation of the Global Ministerial Environment Forum and on support for and enhancing linkages among environmental and environment-related conventions. The first meeting of the GMEF in May 2000 adopted the Malmö Declaration, which stated that the 2002 conference (the World Summit on Sustainable Development) should review the requirements for a greatly strengthened institutional structure for international environmental governance based on an assessment of future needs for an institutional architecture that has the capacity to address wide-ranging environmental threats in a globalizing world.¹

This paper will explore the possibility of reforming existing UN bodies—in particular the Commission on Sustainable Development, the Economic and Social Council and the General Assembly—in an effort to build greater coordination and coherency among environment-related UN activities. It will elaborate the specifics of selected proposals and comparative the advantages and disadvantages of each reform. The paper will

¹ The Declaration states:
“The 2002 conference should review the requirements for a greatly strengthened institutional structure for international environmental governance based on an assessment of future needs for an institutional architecture that has the capacity to effectively address wide-ranging environmental threats in a globalizing world. UNEP’s role in this regard should be strengthened and its financial base broadened and made more predictable.” (Malmö Ministerial Declaration)
conclude by analyzing how the most advantageous proposals would be likely to improve the overall functioning of the international environmental governance system as a whole.

Reforming the CSD

History and Mandate of the Commission on Sustainable Development (CSD)

The General Assembly, in its resolution 47/191\(^2\) of 22 December 1992, endorsed the recommendations on international institutional arrangements to follow up the 1992 Earth Summit (UNCED) in chapter 38 of Agenda 21. They requested the Economic and Social Council (ECOSOC) to set up the Commission to ensure effective follow-up to the Conference and to enhance international cooperation and rationalize the intergovernmental decision-making capacity for the integration of environmental and development issues and to examine the progress of the implementation of Agenda 21 at the national, regional and international levels. The Commission on Sustainable Development (CSD) was formally established by Council decision 1993/207\(^3\).

The Commission is composed of 53 members\(^4\) elected for terms of office of three years, meets annually for a period of two to three weeks and receives substantive and technical services from the Department of Economic and Social Affairs/Division for Sustainable Development. The Commission reports to the ECOSOC and, through it, to the Second Committee of the General Assembly. In keeping with the recommendations of the General Assembly, the Commission has the following functions:

- To monitor progress in the implementation of Agenda 21 and activities related to the integration of environmental and development goals throughout the United Nations system through analysis and evaluation of reports from all relevant organs, organizations, programmes and institutions of the United Nations system dealing with various issues of environment and development, including those related to finance;
- To consider information provided by governments;
- To review the progress in the implementation of the commitments contained in Agenda 21, including those related to the provision of financial resources and transfer of technology;


\(^4\) The members are elected by the ECOSOC from among the Member States of the United Nations and its specialized agencies. Thirteen members are elected from Africa; eleven from Asia; ten from Latin America and the Caribbean; six from Eastern Europe; and thirteen from Western Europe and other. One-third of the members are elected annually and outgoing members are eligible for re-election. Other States, United Nations organizations, accredited inter-governmental and non-governmental organizations can attend sessions of the CSD as observers.
• To review and monitor regularly progress towards the United Nations target of 0.7 per cent of the gross national product of developed countries for official development assistance;
• To review on a regular basis the adequacy of funding and mechanisms;
• To receive and analyze relevant input from competent non-governmental organizations, including the scientific and the private sector, in the context of the overall implementation of Agenda 21;
• To enhance the dialogue, within the framework of the United Nations, with non-governmental organizations and the independent sector, as well as other entities outside the United Nations system;
• To consider, where appropriate, information regarding the progress made in the implementation of environmental conventions, which could be made available by the relevant conferences of parties;
• To provide appropriate recommendations to the General Assembly, through the Economic and Social Council, on the basis of an integrated consideration of the reports and issues related to the implementation of Agenda 21;
• To consider, at an appropriate time, the results of the review to be conducted expeditiously by the Secretary-General of all recommendations of the 1992 Earth Summit capacity-building programmes, information networks, task forces and other mechanisms to support the integration of environment and development at regional and subregional levels.

It also has a role in coordinating the Rio follow-up within the UN system, working with the Interagency Committee on Sustainable Development (IACSD)\(^5\), a subsidiary body of the Administrative Committee on Coordination (ACC). CSD sessions are prepared with the help of Ad Hoc Intersessional Working Groups, which precede the regular sessions. These include governmental experts and provide an opportunity for contributions from major groups as well as from independent experts.

**Successes**

The CSD can claim a number of successes, perhaps foremost for its engagement of civil society stakeholders, as evidenced by the more than 1000 NGOs accredited to the CSD. UNCED witnessed the increased involvement of non-governmental actors in UN processes and at national and regional levels and, in creating the CSD mandate, governments recognized the important role that Major Groups\(^6\) would have in the realization of Agenda 21. Accordingly, the CSD provides the Major Groups with the highest level of involvement of any UN Commission. The multi-stakeholder dialogues in recent CSD sessions have fostered an innovative approach by attempting to generate

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\(^5\) The IACSD is a subsidiary body of the UN Administrative Coordinating Committee (ACC), which in turn acts as a kind of 'cabinet' for the Secretary General. The IACSD is chaired by Under Secretary General Nitin Desai and is made up of senior level officials from nine core members of the ACC - FAO, IAEA, ILO, UNDP, UNEP, UNESCO, WHO, World Bank and WMO. Officials from other UN bodies, intergovernmental agencies and representatives from Major Groups are able to attend by invitation. The IACSD was set up in the aftermath of Rio and asked by the ACC to focus on four areas:

\(^6\) The major groups in Agenda 21 are: Youth, Women, Farmers, NGOs, Local Government, Business, Academics, Indigenous People, Trade Unions; the relevant chapters are 24 to 32.
action-oriented dialogue between governments and major groups concerning a sector, such as agriculture or industry, and identifying future policies and actions that will contribute to advancing sustainable development objectives. Furthermore, the CSD and the Agenda 21 implementation process have contributed to legitimizing the involvement of non-governmental actors at a national level in many countries. Another area in which some observers regard the CSD as effective is national reporting on Agenda 21 implementation.\(^7\) Other successes include:

- Introduced national reporting to the CSD and initiating an integrated indicators programme;
- Established an Inter Governmental Panel on Forests and an International Forum on Forests;
- Set up a new process in the General Assembly to discuss oceans;
- Discussed tourism for the first time bringing the issue in to the Rio process;
- In 1997 at Rio+5, agreed on a two-year process to discuss energy, which is not one of the Agenda 21 chapters;
- Developed an International Work Programme on Sustainable Tourism; and,
- Set up an ongoing multi-stakeholder group on sustainable agriculture and rural development.

**Shortcomings**

Despite these successes, the CSD has not fulfilled the promise envisioned at its inception and criticism has continued to grow; even its supporters seem to recognize that it could benefit from reform of some kind. While its multi-stakeholder process marked a new approach, the CSD has not achieved concrete results and its impact has been very limited. While its criticisms vary widely the following summarizes many key concerns:

i. Lack of Focus and Function

The CSD’s broad mandate, and the comprehensive scope of Agenda 21, has posed a significant challenge by making it difficult to gain a clear focus on what CSD should accomplish. This lack of focus, and the resulting non-specific nature of many of its recommendations, have led to a number of problems and misunderstandings, and led many critics to refer to the CSD a “talk shop” with little substantive purpose.

The CSD considers a range of issues already addressed by other fora, making it difficult to add much value to any one debate. Perhaps the result of overlapping mandates or the desire of some members to raise national political issues, the CSD increasingly “recycles” decisions already taken in other forums. For example, the CSD’s consideration of fisheries in 1996 took several days of negotiating time to produce a

decision recommending that governments implement various agreements and instruments and essentially reiterating the outcomes already agreed in other international fora.

Critics have also argued that the CSD can create a ‘decoy effect’ by considering sectoral issues that have been dealt with in more specialist fora for many years, thereby drawing attention from, or potentially conflicting with, other international decisions. CSD has at times presented an alternative forum for governments unsatisfied with the outcome, or direction, of discussions under MEAs or treaties. At more than one CSD session, governments apparently dissatisfied with the ongoing UNFCCC negotiations have attempted to produce a decision that differs or varies from a previous decision—sometimes attempting to strengthen or buttress their position, or alternatively to weaken or compete with the UNFCCC decision and undermine credibility of both statements.

Rather than adding value, the CSD is often seen as increasing fragmentation. This may actually have the opposite effect of mainstreaming sustainable development concerns; in fact, it may further isolate these issues from financial and economic discussions and greatly lessen their credibility. This fragmentation may further marginalize developing country concerns because allowing these issues to be aired in the CSD may have lessened the pressure to address them elsewhere. Therefore, many key policy-makers view the CSD as irrelevant to their real work and tend to focus on general statements, rather than take advantage of the opportunities offered to consider priorities and interlinkages.

ii. Low Placement in the Institutional Hierarchy

The CSD faces the difficulty of attempting to maintain a high-profile leadership role from a relatively low place in the international institutional hierarchy, as a functional ECOSOC commission. ECOSOC is generally not regarded as an effective body.

iii. Too Environmentally-Focused

Environmental issues form only one part of the CSD’s broad mandate on sustainable development. Some critics, however, think the CSD has focused too strongly on the environmental element of its mandate, de-emphasizing the developmental element, which has again contributed to marginalizing developing country concerns. This focus has lead to sessions attended by too many environment Ministers and not enough development Ministries. Furthermore, there is scope for some overlap in the mandates of the CSD and UNEP, although their roles are different. Nonetheless, many skeptics view the CSD and UNEP as competitors. Delegates at recent GMEF discussions also raised concerns regarding the possibility of competition between the roles of the CSD and the GMEF.
Proposals for Reform

i. Redefining the Mandate

During the 1990s, decision-making on environment and sustainable development shifted from the national to the international level through new MEAs and processes, many of which had unclear or immature mandates, different governance structures and undefined relationships. The CSD has been increasingly seen as the embodiment of these structural problems. Some proposed reforms would strengthen the CSD’s mandate and status within the UN and redefine its mandate, so it could focus on a limited number of issue areas and have the power to add real value. As the Earth Negotiations Bulletin commented in its CSD-5 summary, the CSD must "deliver a renewed political mandate to translate popular concern into urgent and concrete instructions to politicians, translate the information-rich assessments into unequivocal action plans, and translate illusions of top-down sovereign authority and competence into partnerships that span a globalizing world."

ii. Focus on Implementation and Finance

Some critics propose that the CSD focus its future work programme on the actual implementation whatever subject it is discussing, not just developing new decisions. These could include:

- Development needs, and the scale of change and investment needed;
- Current levels of expenditure, current and capital on meeting those needs, and the scope for enlarging ODA, FDI, domestic investment;
- Legislative and regulatory frameworks and needed adjustments; and,
- Scope and incentives for involvement by major groups for action.

Suggestions emerging from recent WSSD preparatory roundtables have echoed these ideas, including that CSD should: monitor the overall flow of resources (ODA, FDI, and others) and the transfer to, or cooperation with, developing countries in the area of environmentally-sound and relevant new technologies; identify areas of lack of implementation; and take concrete decisions to remove roadblocks.

iii. Elevated Status or Increased Authority

Redefinition of the CSD mandate to foster actual implementation, however, presents many political problems, particularly for discussing financial issues. Despite their public statements, the behavior of many governments at CSD meetings belies their reluctance to vest the organization with any genuine power or “teeth”. One of the key areas that CSD failed to deliver was its review of the adequacy of financing and the transfer of technologies as outlined in Agenda 21, an often-cited criticism of developing countries. For them, the decline in ODA since 1992, and attempts during CSD-5 to switch the burden of international funding for sustainable development to private sector investment, which developed countries argue only acknowledges reality, have helped to discredit the concept of sustainable development. CSD lacks the ability to oblige governments to take
action at the international level, but perhaps more importantly at the national and local levels. While it has made progress in mobilizing the international community, its focus has been mostly on dialogue and debate. Given its limited powers, this is no surprise.

Furthermore, the CSD was deliberately made a soft law forum, rather than a legal body that negotiates international agreements or financial commitments. While the serious tenor frequently adopted by governments in legal negotiating sessions would be a welcome change, it is unlikely they will grant CSD any legal authority that could compete with other fora. Another frequent suggestion would grant the CSD a higher status than a functional commission of ECOSOC; or “upgrade” it by linking it more closely with the main ECOSOC debates or the General Assembly debate on environment and sustainable development. However, the relatively low status of CSD within the UN hierarchy was again deliberate, reflecting the fact that it was established amid concerns about creating new institutions at a time when efforts were being made to streamline the UN system, particularly as ECOSOC was not seen as either an efficient or an effective UN body. Given that fact the governments seem were originally unwilling to vest the CSD with much power, it is unlikely that they are anxious to grant it any more authority.

iv. Focus on Coordination

Many recent proposals stress the need for better coordination, through the CSD, among MEAs and international institutions to address the fragmentation in the international system. The UN Task Force on Environment and Human Settlements, for example, found that: “Further steps are needed to strengthen linkages and provide support that will ensure that the international community derives maximum benefit from the investments it has made in this system of international instruments.” While better “coordination” appears a laudable goal, coordination efforts can consume tremendous amounts of time and resources and are not always fruitful. Coordination should be assessed carefully, considering the purpose and expected outcome of the coordination activities. As some critics have noted, many times the best way ahead is for an agreement or institution to focus more on achieving its core mission and less on coordination with other agreements and institutions. Plus, many governments resist the idea of “coordination,” a term with unclear implications and suggestions of a new decision-making power or authority.

Recommended Reforms

A common theme from most all reform proposals focuses on the crucial to find some means of identifying meaningful priorities for effective negotiation. Rather than seek a more powerful mandate or higher intergovernmental status, which many governments will strongly resist, a better approach—as suggested by many observers—may be to redirect the CSD toward the type of work where it could make a difference and combine it, where possible, with similar UN organizations that focus more closely on aspects of sustainable development. Rather than “bigger and broader”, the focus should be more

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narrowly focused on tasks that the CSD could actually accomplish and to areas where it could add value. A redefined mandate, therefore, could include the following:

i. Systemic Focus

A more narrow and realistic focus for the CSD could be to train its focus on the functioning of the UN itself, rather than the world as a whole. A systemic approach would focus, in simplest terms, on what the UN is or is not doing; or if the UN is acting, is it adequately addressing the sustainable development aspects of any given issue area. Two of the CSD’s most notable areas of successes stem from the CSD-7 decisions on oceans and tourism, both of which led to actual changes in the manner in which the UN considered these issues. Its decision on oceans, \textit{inter alia}, recommended that the General Assembly establish an open-ended informal consultative process to facilitate the consideration of matters within the GA’s existing mandate. For tourism, it actually introduced the issue into the Rio process and developed an international work programme on sustainable tourism. In both examples, the CSD focused on how it could contribute to integrated decision-making by providing better consideration of the overall policy matrix.

This approach for the CSD should be distinguished from the coordination role under consideration for the EMG.\footnote{EMG was established following the adoption of General Assembly resolution 53/242, and includes amongst its members the specialized agencies, Funds and Programmes of the United Nations system and the secretariats of multilateral environmental agreements. It follows an issue-management approach whereby issue-management groups are established within the organizations concerned in order to address specific issues identified by EMG within an established time frame. Issues selected so far include the harmonization of biodiversity-related reporting, the development of a system-wide approach to environmental education and training, waste management and chemicals.} Governments clearly attach importance to coordination efforts that go beyond issue management and proposed actions, which strive for enhancing policy coordination across the UN system, include reporting annually to GMEF on specific issues arising from the work of the UN system in the environmental area. While a systemic approach for the CSD could overlap to some extent, its revised mandate should go beyond environmental matters to address developmental aspects as well. Furthermore, in the current situation of declining ODA, addressing the issues of Agenda 21 only within the ambit of a UNEP discussion will reinforce the view of many governments that the environment is a constraint on achieving development. Some critics think the CSD has made strides in “filling in the gaps” in the past five years, but codifying this approach within a renewed mandate would provide the soundest step.

ii. Focused Expectations For Reports

CSD’s critics strongly dislike the lack of a clear purpose for its decisions—do they intend to improve integration of the UN system, government decisions, access to sources of funding, etc.? It’s reports have tended to focus extensively on action required at the national level and also in terms of formulating new directives to the organizations without really examining how to improve institutional effectiveness in terms of supporting efforts of member states to implement the various recommendations. The primary reason many
governments engage in such detailed discussion of national agendas and priorities comes from their expectation that decisions adopted in this fora will result in the channeling of additional resources to support implementation and, absent some change, many countries may not be willing to continue coming to New York to discuss their national plans. Rather than continue to make promises that it cannot keep, the reports emanating from CSD, and their anticipated outcomes, should be made clear through a renewed mandate that sets clear parameters and goals for CSD’s actions.

iii. Combining CSD with Other Bodies

Some authors have suggested combining CSD with as many as four other ECOSOC councils; namely, the Commissions on Social Development, Status of Women, Sustainable Development and Population and Development. All of these Commissions are serviced by the UN Department for Social and Economic Affairs (DESA). Other suggestions have included the Commission on Human Settlement, a standing committee. While this approach warrants consideration, the combination of this many committees could work against a more cohesive focus and could require burdensome coordination.

Some observers attribute the CSD’s tendency to over-emphasize its environmental dimension to the existence of the Commission on Social Development\(^\text{10}\) and the Committee on Development Policy (formerly the Committee on Development Planning\(^\text{11}\)), which take up other important pillars of sustainable development and arguably leave CSD then focused on environmental issues by default. A combination of these three bodies, either as a single commission or as joint grouping of commissions, could address sustainable development in a more complete matter. These could be implemented by: high-level joint meetings of the three bodies; joint programmes of work by the Secretariats where possible; and, a common diary of related meetings

iv. Closure of the CSD

While the most vocal CSD critics have called for its closure and the incorporation of its functions elsewhere within the UN system, it is extremely difficult to close down a UN body. Many governments would strongly resist the idea of closing the CSD for fear of the public signal such action would send. Other governments would resist closure if it were not clear that the functions of the CSD would be properly addressed elsewhere. Furthermore, there is a strong argument for maintaining a forum where a broad policy dialogue, or ‘collective learning process’ on sustainable development, can take place. Many governments find the CSD convenient because provides a designated, low-level forum for interactions with civil society. ECOSOC and its subsidiary machinery is the

\(^{10}\) The Commission for Social Development is a functional commission of the ECOSOC and consists of 46 members elected by ECOSOC.

\(^{11}\) As part of the reform of the Economic and Social Council's subsidiary bodies, the Substantive Session of the Council in July 1998 decided to rename the Committee for Development Planning as the Committee for Development Policy. The mandates states that it “shall comprise twenty-four independent experts with a good mix of expertise, who are to be drawn from the fields of economic development, social development and environmental protection.”
only central UN body where NGOs possess formal consultative status. The CSD may also be convenient for discussion of other issues that governments think should be addressed at the UN, but on which they may not yet be ready to take substantive action.

Changing the Role of the UN Economic and Social Council (ECOSOC)

The Economic and Social Council (ECOSOC), which consists of 54 Members of the UN elected by the General Assembly, has the task of taking forward the UN’s activities in the economic and social area. It may make or initiate studies and reports with respect to international economic, social, cultural, educational, health and related matters and may make recommendations with respect to such matters to the General Assembly, to the Members of the UN and to the concerned specialized agencies. It may coordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the Assembly and to the Members of the UN. ECOSOC has the task of managing relations with the specialized agencies and with NGOs. It usually holds one five-week substantive session each year.

The Programme for the Further Implementation of Agenda 21 emphasizes that given the increasing number of decision-making bodies concerned with various aspects of sustainable development, there is a growing need for better policy coordination at the intergovernmental level and for continued and more concerted efforts to enhance collaboration among the secretariats of those decision-making bodies. The Programme emphasizes that ECOSOC should play a strengthened role in coordinating the activities of the United Nations system in the economic, social and related fields.

Proposed Changes

Economic and Social Council (ECOSOC) could, for example, play a useful role in terms of providing for greater coherency and direction to all environment-related UN activities. Its broad mandate, which encompasses economic, social, human rights and other issues, could provide a basis for integrated and comprehensive institutional development because it offers scope for some adaptability. ECOSOC could attempt to develop its coordination function, which encompasses a large part of the UN system. This could involve strengthening its relationships with UN specialized agencies and strengthening its current role in promoting integrated and coordinated follow-up to major UN conferences.

However, the political acceptance of new role for ECOSOC would be limited in light of its less than prominent role in the past. As one critic commented: “Many necromancers have sought to summon the Economic and Social Council back to life over the past few decades, but its inherent problems of a weak mandate over specialized agencies and—most of all—an unwieldy size have frustrated all efforts to give it meaningful life.”

12 Article 63 of the UN Charter.
13 Jeffrey Laurenti, Renewing the United Nations: A Critical Assessment of the Secretary-General’s ‘Track Two’ Reform Program (UNA-USA, 1997).
ECOSOC is not generally regarded as an effective body. The Secretary-General’s proposals for UN reform in 1997 noted that there may be a need for a long-term fundamental rethinking of the role of ECOSOC, in addition to the immediate priority of enhancing its policy management and coordinating roles. The issue of Charter revision could also arise if extensive adjustments were made to ECOSOC’s area of activity. This would be difficult if attempted, in that ECOSOC’s mandate is extremely challenging because it “competes” with the Bretton Woods institutions (the IMF and World Bank) in its task of advancing UN purposes in the economic and social areas. Furthermore, ECOSOC’s large subsidiary machinery makes it difficult for it to implement a strong coordination role.

Establishment of a New General Assembly Committee on Sustainable Development

Another option for international environmental governance is to increase the sustainable development focus of the General Assembly, possibly through a new committee. Under Article 10 of the UN Charter, the General Assembly may discuss any question or any matters within the scope of the Charter or relating to the powers and functions of any organs provided for the Charter. The Assembly, which consists of all the UN Members, may make recommendations on any such questions or matters, except where the Security Council is acting. The Assembly, inter alia, makes recommendations for the purpose of promoting international cooperation in the political field and encouraging the progressive development of international law and promoting international cooperation.

Environment and sustainable development are among the many agenda items considered by the UN General Assembly in its annual sessions. Past items have included the implementation of Agenda 21, MEAs, water supply and sanitation, small island developing states, promotion of new and renewable sources of energy and, recently, complementarities among international agreements. Most of these issues are addressed by the Second (Economic and Financial) Committee, but some such as the law of the sea and fisheries are considered in plenary. In 1999, the Assembly adopted a resolution on enhancing complementarities among international instruments related to environment and sustainable development, which aims to encourage Conferences of the Parties and Secretariats to MEAs to address interlinkages. The UNEP Governing Council reports to the Assembly, which considers and decides on selected environmental and environment-related issues, including institutional arrangements and related international processes.

Proposals

The General Assembly debates on environment and sustainable development could provide more overall direction to the international regime, as well as highlight broad priorities and address overlaps and unclear mandates. Recent developments on

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14 See for example, ‘Report of the Secretary-General on Renewing the United Nations: A Programme for Reform’ (UN Doc.A/51/950, 14 July 1997), paras 130-137.
enhancing complementarities among international instruments related to environment and sustainable development could be built on. Another example of the Assembly’s changing role on environmental policy is its annual debate on the law of the sea and oceans. In the past, debates have consisted mainly of general statements. However, recent developments, including the formal oversight role of the Assembly for the new UN Fish Stocks Agreement have helped instill a change. The UN Open-Ended Informal Consultative Process on Oceans and the Law of the Sea, established by the General Assembly on the recommendation of the CSD, aims to facilitate deliberations in the Assembly on oceanic affairs and to strengthen international coordination and cooperation in the area of oceans and seas, which may revitalize the Assembly’s oceans debate.

Another proposal would establish a special ministerial commission to consider the possible need for changes in the UN Charter and the constituent instruments of the UN specialized agencies. It could examine how the weaknesses of the decentralized UN system can best be corrected while preserving its advantages, so as to effect major improvements in the capacity of the system, as a system, to serve the world community in the 21st century. Other authors have proposed the establishment of a panel of experts with international standing to review the constitutions and mandates of all UN organizations and the Bretton Woods institutions to determine whether, and if so how, they should be revised to remove any constraints to sustainable development, and whether mergers of some organizations would be appropriate. Still others have proposed establishment of a new UN organ or specialized agency empowered to take binding decisions and coordinate SD policies for global environmental protection that could take immediately binding decisions by a two-thirds majority vote. Other proposals have proposed an Environmental Security Council with the power to take binding decisions.

Problems

The General Assembly’s large membership and extensive agenda may not provide an ideal basis for effective outcomes, as many of its resolutions tend to have little impact. The non-binding nature of the Assembly’s resolutions has attracted attention, with detrimental comparisons being drawn with the decision-making powers of the Security Council. UN reform proposals have tried, but so far mostly failed, to focus the Assembly’s agenda and revitalize its debates. The most prominent obstacle is that issues on the Assembly agenda usually become part of a complicated package of trade-offs, which means environment and sustainable development can “lose out” in the process. The personalities and working methods of the Assembly, for example the

informal, unpredictably scheduled processes for agreeing resolutions, can also be a problem.

Nonetheless, developing countries view the Assembly as a body in which their interests are fairly represented, which could help build acceptability of reinforcing the Assembly’s role. The matter of Charter revision would not necessarily arise, as might be the case with ECOSOC. The possibility of revitalizing the Assembly’s role, or elements of it, such as consideration of the report of the UNEP Governing Council, would require generating consensus for action at UN HQ in New York and in Nairobi. It would not require new institutional decisions, but more active involvement by government representatives, for example in negotiations of the Assembly resolution on the Governing Council report.

Conclusion

Among the myriad proposals at play for improving IEG considered in this paper, a reformed CSD—with a systemically focused mandate, a clear role for decisions, and a work programme developed in tandem with two other relevant commissions—provides the most likely avenue for success. This proposal would improve the current approach by sharpen the focus of the CSD’s deliberations and give new credibility to its decisions. It would also combine its work with other ECOSOC organizations that focus on important pillars of sustainable development that are often missing from current CSD debates. With a reformed and more productive organization, credibility will grow and many other benefits, such as improved debates on finance, increased participation, increase participation, and increased influence over policy will likely follow.

Many critics in the IEG debate so far have tended to promote dramatic solutions—such as creating a major new institution—perhaps to underscore their concern and sense of urgency. However, focusing too broadly and attempting to address too many issues has likely been the culprit for many international institutional shortcomings. A more direct, narrow focus and better use of established organizations likely holds the key. There are alternative routes to enhancing global environmental governance that would involve an initial set of modest, more focused steps. Whatever option is chosen, the structure of the institutions forms only one part of global environmental governance. At the root of the reforms outlined in this report lies the need for political will; without that, no institutional reform can move the world very far down the road towards sustainable development.
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