

A World Environment Organization

Steve Charnovitz

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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Abstract

This paper seeks to promote a better debate on the question of whether governments should set up a World Environment Organization (WEO). In Part I, the paper explains that while some of the arguments for a WEO are not convincing, compelling arguments do exist for a WEO. The paper also explains that full centralization of international environmental affairs is impossible, and thus a WEO would entail partial centralization. In Part II, the paper discusses how a WEO might be organized, and emphasizes the need for an inclusive approach to a participation. The paper also examines the key question of how a WEO should attract the multilateral environmental agreements (MEAs), and suggests that MEAs will want to associate with a well-functioning WEO. In Part III, the paper considers the benefits of a WEO compared to the status quo with respect to five analytical priorities. The paper concludes by suggesting that the potential effectiveness of a WEO depends on numerous factors and, if properly designed, has the potential of making an important improvement in the environmental governance of our planet.

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Introduction

This paper explores the idea of bolstering international environmental governance by centralizing the current system under one umbrella institution. The idea received important backing in June 1997, at the United Nations General Assembly Special Session, when Germany's Federal Chancellor Helmut Kohl, Brazil's President Fernando Henrique Cardoso, South Africa's Deputy President Thabo M. Mbeki, and Singapore's Prime Minister Goh Chok Tong joined together in a "Declaration" for a Global Initiative on Sustainable Development. A key point in that Declaration was that "the establishment of a global environmental umbrella organization of the UN with UNEP as a major pillar should be considered." That joint Declaration had been spurred by a proposal at a Rio+5 Forum held earlier that year (Strong 1997). While this Declaration did not meet with enthusiasm at the Special Session, it energized longtime advocates of such a reform and catalyzed policymakers to acknowledge the need to think more systemically about the defects of global environmental institutions. In the following four years, governments introduced some new institutions and initiated a dialogue about more fundamental changes. In September 2002 in Johannesburg, there will be a World Summit on Sustainable Development, which will follow up the Special Session of 1997 and the U.N. Conference on Environment and Development of 1992. Many observers anticipate that the organization of environmental governance will be reviewed at the Summit and that significant decisions may be taken. As Urs Thomas has noted, "there is presently a certain institutional effervescence in the air" (Thomas 2000).

The idea of an international agency for the environment is by no means new. The attention to the environment in the early 1970s led some analysts to propose the establishment of new agencies. In a lead article in *Foreign Affairs* in April 1970, George Kennan proposed an "International Environmental Agency" as a first step toward the establishment of an International Environmental Authority" (Kennan 1970). The most comprehensive proposal that has come to my attention was developed by Lawrence David Levien who proposed a "World Environmental Organization" modeled on the practice of the International Labour Organization (ILO) which was created in 1919 (Levien 1972). The establishment of the U.N. Environment Programme (UNEP)¹ in 1972 settled the organizational question although some observers at the time viewed it as unsatisfactory (Brenton 1994). It was not until a generation later, in the run-up to the Rio Conference of 1992, that dissatisfaction with UNEP and the seeming

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¹ Technically, the UN General Assembly established the Governing Council of UNEP rather than UNEP itself. At that time, the governments did not want to establish a new agency.

opportunity of institutional change, sparked new proposals for a firmer structure of environmental governance.

The most important proposal came from Sir Geoffrey Palmer, the former Prime Minister of New Zealand who advocated new methods of making environmental law, and called for action at the Rio Conference to establish a specialized UN agency for the environment (Palmer 1992). Palmer proposed the creation of an “International Environment Organization” borrowing loosely on the mechanisms of the ILO. He saw an opportunity for a “beneficial restructuring” of the world’s environmental institutions, that “would involve cutting away existing overlaps in international agencies.” No such action was taken at the Rio Conference which instead called for the creation of the Commission on Sustainable Development (CSD) and for “an enhanced and strengthened role for UNEP and its Governing Council” (Agenda 21, 1992).

Within a couple of years, new support for institutional change came from a different direction, the international debate on “trade and the environment” which had been rekindled in 1990 and was in full swing by 1993. Both camps in this debate saw the weak state of the environment regime as a problem. The environmentalists yearned for an international agency that could stand up to the General Agreement on Tariffs and Trade (GATT), which they saw as a threat to environmental measures. And the trade camp wondered whether a better environment regime might spur the use of appropriate instruments for environmental protection rather than inappropriate instruments such as discriminatory trade measures.

With one foot in both camps, Daniel C. Esty became a new champion of establishing a new international environmental organization. His article “GATting the Greens” contended that solving the trade and environment conflict would necessitate not only a greening of trade rules, but also a stronger organization of environmental governance (Esty 1993). Esty proposed the GATT as a good model for an environmental institution. In 1994, Esty optimistically named the institution the Global Environmental Organization (GEO) (Esty 1994), and in a series of studies, he strengthened the environmental arguments for institutional change. Esty began the Global Environmental Governance Project at Yale in 1998, and has organized a series of study groups to improve understanding of the proposals for change.

Ford Runge was another early advocate of institutional reform. In 1994, he proposed a World Environmental Organization to give stronger “voice” to environmental concerns (Runge 1994). Runge suggested that a new organization could serve as a “chapeau” to the growing number of international environmental treaties, but he did not elaborate on how that might be done. In his most recent study, Runge argues that a GEO could alleviate environmental pressure on the World Trade Organization (Runge 2001).

The ranks of academic advocates for a World Environment Organization (WEO) have expanded in recent years. For example, Rudolf Dolzer has proposed a global environmental authority “with the mandate and means to articulate the international interest in an audible, credible and effective manner...” (Dolzer 1997). Frank Biermann

has provided the most systematic analysis of what a WEO would do (Biermann 2000, 2001). John Whalley and Ben Zissimos have defined an economic role for a WEO (Whalley & Zissimos 2000, 2001). Peter Haas has advocated a GEO to centralize support functions like research, technology databases, and training for the various environmental regimes (Haas 2001). The German Advisory Council for Climate Change has recommended that UNEP be upgraded into an International Environmental Organization as an entity or a specialized agency within the UN system (German Advisory Council 2001). The Council points out that this step might not suffice to remedy the deficits it sees, and suggests consideration of another proposal that would involve integrating various environmental agreements and their Conferences of the Parties into a common Framework Convention Establishing an International Environmental Organization.

Proponents of a WEO received a boost in June 2001 when the U.N. High-Level Panel on Financing for Development (the Zedillo Commission) proposed that “The sundry organisations that currently share responsibility for environmental issues should be consolidated into a Global Environmental Organization” (United Nations 2001) The Commission’s report was disappointingly thin on a proposed design for such an organization or its exact rationale however.

WEO advocates have been challenged by some environmental experts, the leading ones being Calestous Juma and Konrad von Moltke. Juma has argued forcefully that the advocates of a WEO have produced “no compelling organizing principle, clear design concept, or realistic plan” and have failed to explain how new institutions would operate better than existing ones (Juma 2000a, 2000b). Furthermore, he has criticized a WEO as being inherently bureaucratic and contended that centralization is a “peril” in an era of decentralization. He also warned that “the debate on creating a new agenda diverts attention from more urgent tasks.” Von Moltke has expressed skepticism that a WEO would help in solving current problems, but has been less definitive in his criticism (von Moltke 2001). While emphasizing the need for change, he has underlined the impracticality of a true WEO.

This paper will be organized as follows. Part I will develop a case for a WEO of moderate centralization. Part II will discuss the structure and functions of a WEO. Part III will consider the extent to which a WEO might contribute to achieving a set of specific objectives for environmental governance.

Refining the WEO Debate

Part I of this paper has four sections. Section A discusses the terms “WEO” and “centralization.” Section B explains why a fully centralized WEO is inconceivable. Section C presents some factors to consider in deciding whether a WEO is a good idea. Section D presents a case for setting up a WEO.

Note on Terminology

This paper will employ the most commonly used term “World Environment Organization” and its acronym “WEO.” Many international agencies start with the modifier “World,” such as the World Health Organization (WHO), the World Meteorological Organization (WMO), the World Intellectual Property Organization (WIPO), the World Tourism Organization and the newer World Trade Organization (WTO). The oldest of these, the WHO, goes back to 1946. Calling an organization “World” connotes a universality about it that can be an appropriate moniker. It was the Chinese government that had the inspiration of naming the new health organization a “World” agency.

Nevertheless, it should be said that a Global Environment Organization is a better name because it could be called a “GEO.” Geo means earth or land, and is a term that the public can readily understand and identify with. The public is unlikely to warm up to a “wee-oh” any more than they have warmed up to a “dubya-tee-oh.” Esty, who invented the acronym GEO, argues that the new organization should be limited to global rather than international functions. One can disagree with that limitation and still see the wisdom of using the term GEO.

This paper will employ the word “centralized” based on the framework paper written by the Institute of Advanced Studies, but that is not the best descriptor. Advocates of a WEO are not proposing true centralization. They are not saying that all environmental governance needs to be in one building (like the WTO) or in one organizational entity. They are not saying that the environmental governance that goes in every country and city in the world needs to be centralized and directed from the top. Indeed, one of the advocates of moving toward “an overarching, coherent international structure,” Michael Ben-Eli, says that he favors a “decentralized approach” (Ben-Eli 1997). Perhaps some of the reaction against a WEO comes from analysts who are reading too much into the term centralization.

The WEO proposal would be more accurately called a consolidation. The myriad, disconnected organizational boxes of global environmental governance would be consolidated into fewer boxes with more networking among the entities. Environmental governance would probably not have one center, but instead several leadership nodes.

Full Centralization Is Inconceivable

If centralization is the aim, why not a single WEO that consolidates all international environmental institutions under one umbrella? Such a complete organization could comprise UNEP, the hundreds of multilateral environmental agreements (MEAs), the WMO, the Global Environment Facility (GEF), the pollution control programs of the International Maritime Organization (IMO), the International Tropical Timber Organization, the fishery and forestry programs from the UN Food and Agriculture Organization (FAO), the Intergovernmental Panel on Climate Change (IPCC), the International Oceanographic Commission, the UN Inter-agency Committee on Sustainable Development, and many others.

Although a large WEO would have some compelling logic behind it, such a massive reorganization is inconceivable. Yet even if it could be done, there are strong arguments against it. One problem is that environmental issues are often diverse from each other and the plenitude of issues might not coexist well (Juma 2000b). Another problem is that the resulting organization would cut a huge swath through domestic policy, and no government would be comfortable giving any WEO executive that much responsibility. In pointing out why a broad WEO would be impossible, von Moltke makes an additional telling point that no major government has an environmental ministry as broad as the subject matter of a fully centralized WEO (von Moltke 2001). If governments have not deemed it advisable to amalgamate environmental functions at the national level, why should one assume it would be advantageous at the international plane? Of course, it could be that governments have maintained separate national agencies with environmental functions to coincide with disconnected international organizations. But that might imply that national bureaucracies may resist a global reorganization that would disrupt their relationships with international agencies.

The fallacy of full centralization can also be seen by recalling that even the non-environmental agencies will need environmental programs, staff, and offices (Szasz 1992). The World Bank, the WTO, ILO, WHO, FAO, UN Educational, Scientific and Cultural Organization, the UN Conference and Trade and Development (UNCTAD), the International Atomic Energy Agency, and the Organization for Economic Co-operation and Development all have environmental components, and properly so. The mainstreaming of environment into all agencies is one of the successes of modern environmental policy, even if these environmental components are inadequate. The existence of such environmental offices is hardly redundancy; it is the means that organizations use to interface with related issues. The fact that there may be a dozen or more international offices addressing climate change is not symptomatic of disorganization. Rather these offices exemplify a recognition that responding to global warming will require a multifaceted effort.

The centralist would not deny the need for regional environmental programs like the regional seas treaties and the North American Commission for Environmental Cooperation, and for environmental components of regional institutions such as the development banks or the Association of Southeast Asian Nations (ASEAN). The

regional level is often the right level for environmental cooperation because it matches the scope of the problem or the ecosystem at issue. Thus, even with a fully centralized WEO, there might be more intergovernmental environmental institutions outside the WEO than inside it.

That a fully centralized WEO is inconceivable should not come as a surprise because no other regime is fully centralized either. The WTO may be the core of the trade regime, but many trade agencies and bodies of law lie outside of it, such as UNCTAD, the International Trade Centre, the trade directorate of the OECD, the UN Convention on Contracts for the International Sale of Goods, the UN Commission on International Trade Law, and various agreements on trade in food, endangered species, hazardous waste, military goods, etc. The WHO may be the core of the health regime, but many health agencies and bodies of law lie outside of it, such as the UN Population Fund, the Joint UN Program on HIV/AIDS, the UN International Drug Control Programme, the International Consultative Group on Food Irradiation, and numerous ILO conventions. Even the United Nations system, which is comprehensive, excludes the World Bank Group, the International Monetary Fund, and the WTO. While the environment regime may seem comparatively disjoint, consider the development, energy, and banking regimes, which enjoy even less cohesion than the environment regime.

Some commentators contend that the environment regime should consolidate in the way that the WTO has consolidated various GATT agreements. This WTO analogy is false however. The GATT was centralized already. The WTO was created from existing GATT agreements (as modified in 1994) and several new agreements. The WTO did not incorporate non-GATT entities in the same way that WEO advocates want to incorporate non-UNEP entities. Although the WTO did incorporate new obligations on intellectual property, it did not transfer these functions from the WIPO. It is true that WTO membership was conditioned on accepting new versions of GATT agreements that had gathered only a small number of parties. But the new versions were negotiated during the Uruguay Round. That maneuver is quite different from establishing a WEO and requiring that governments ratify, say, the Desertification Convention as a condition for WEO membership.

The WTO is also used misleadingly as a model for integrating the MEAs. For example, the German Advisory Council contends that the MEA Conferences of the Parties can be brought under the umbrella of a WEO in the same way that special committees of the WTO Ministerial Conference operate with a “high degree of autonomy.” This analogy is inapt, however, because almost all of the WTO committees are committees of the whole, and none of them so far has operated with any autonomy from the WTO membership as a whole.

The only regime that has consolidated in the way that proponents want a WEO to do is intellectual property. In 1967, the UN established the WIPO to bring together the intellectual property conventions and unions. Today, WIPO oversees 21 separate treaties. But WIPO is not a convincing model for a WEO because WIPO is too topically narrow. Moreover, it was dissatisfaction with WIPO that led GATT parties to write the

new WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). In WIPO, governmental members are *not* required to join the treaties and there are no WIPO systems for implementation review.

Thus, if WEO centralization is going to be done, it will need to chart its own course rather than follow in the footsteps of another organization. This need for complete reinvention is not a reason to refrain from undertaking a WEO. But it should serve as a caution for trying to do too much at once, particularly in a year in which de-globalization may be occurring.

Reorganization Calculus

A practical plan for a WEO would seek to centralize some environmental agencies and functions, with the recognition that many important institutions would be omitted. Determining whether such a plan should be pursued requires weighing the costs of reorganization against the gains. The obvious costs of reorganization include administrative costs and opportunity costs as officials focus on reorganization rather than production. The gains are more speculative but one would hope for administrative savings and anticipated improvement in productivity. No major reorganization is worth doing unless the expected gains are well in excess of the expected costs.

Can we really expect a WEO to lead to higher value outputs in environmental governance? Reducing the excessive fragmentation in the environmental regime would seem almost necessarily to be beneficial. Yet fragmentation also has its good side. According to recent management research, innovation proceeds most rapidly under conditions of some optimal, intermediate degree of fragmentation (Diamond 2000). Since a high capacity for innovation may be the most distinguishing feature of the environment regime (Kiss 1992, von Moltke 2001a), and a key source of its successes, one needs to be careful about undertaking a reorganization that would reduce fragmentation, and hence innovation, too much. One reason why some fragmentation is good for innovation is that fragmented entities compete with each other. The environment regime has surely benefited from diversity among the entities that do environmental work (Sand 2001).

The main target of the WEO proposals is the MEAs and their associated institutions. It is the centralization of the core MEAs that is touted as the main benefit from reorganization. Yet it is the MEAs that have been the most innovative feature of the environment regime. A recent study in the *American Journal of International Law* provides a comprehensive review of the techniques of rulemaking, decisionmaking, and compliance review in MEAs, and characterizes these developments as “unique” within international organization and law (Churchill & Ulfstein, 2000). Indeed, the significance of this development leads the authors to devise a new name for the way MEAs work: the authors call them “autonomous institutional arrangements.” If the innovativeness of the MEAs stems from their autonomy, that would throw up a caution flag against doing a reorganization aimed at reducing that autonomy. At present we do

not have enough evidence to measure the value of autonomy to the MEAs. But it is certainly interesting to take note that the fragmented, autonomous MEAs were so innovative over the past 30 years, while the more traditionally structured international organizations, like WHO and ILO, have not been as innovative. In defense of these two organizations, it should be noted that they have gotten more innovative in recent years. The WHO is now using previously neglected authorities to promulgate a convention on tobacco, while the ILO has enacted a new Declaration that defines fundamental worker rights and provides a review mechanism for governments that have not ratified the applicable conventions (Fidler 1999, Torres 2001).

To be sure, autonomy was not necessarily the key reason why the MEAs were so dynamic and successful. The main reason perhaps is that the MEAs were driven by advancements in scientific understanding of the underlying environmental problems. Had the environmental problems been less severe, the MEAs would not have been called upon to do as much. Furthermore, the MEAs worked because governmental parties wanted them to, and were willing to endow the Conferences of the Parties with important powers. The question remains, however, whether governments would have been as willing to grant as much authority to a *general* environmental organization as they did to the specialized MEAs.

In weighing the costs and benefits of greater centralization of environmental functions, one should start by considering two of the leading arguments for a WEO. First, that a WEO would be stronger than UNEP. Second, that a WEO would serve as a counterweight to the WTO. Neither argument is convincing.

The strength of UNEP results from the choices that governments have made. If governments wanted to make UNEP stronger now, they could do so. The act of establishing a WEO, with nothing more, will not strengthen environmental governance. Analysts sometimes make the mistake of thinking that reorganization (or organizational name changes) can drive policy. That almost never happens. Reorganizations can only be useful when they implement policy changes.

If governments decide to create a WEO, it may be because they have decided that a more centralized, better funded environmental governing structure is needed to achieve more effective environmental policy. If so, then a WEO would be stronger than UNEP. But there is also a danger that governments may create a status-enhancing WEO without giving it more authority or funding than UNEP now has. That sort of WEO, endowed with only an enhanced “conscience” role, would not be appreciably stronger than UNEP.

The notion that a well-constituted WEO could act as a check or counterweight against overreaching by the WTO has some potential validity (Esty 2001a). External pressure is needed on the WTO to get trade officials to consider the environmental implications of what they are doing, particularly now that the WTO has launched a new trade round. UNEP recognized the need for such advocacy in 1993 and began to undertake trade-related efforts. That these efforts have had little effect is due to their poor execution and

to the difficulty of the challenge, and not at all to UNEP's status as a "programme" rather a specialized agency.

While it is true that GATT/WTO officials and national delegates to the WTO have claimed for years that coordinating with the environment regime is hard because it is so disparate, one should be hesitant to accept such claims on face value. The WTO does not cooperate well with other agencies because it is hard-wired to be insular and parochial, and to resist other values beyond commercial reciprocity. If organizational unity were sufficient for WTO coordination, then one would expect the WTO to have very tight relations with the WHO and the ILO, whose headquarters (unlike that of UNEP) are located within a kilometer or two from the WTO. But the WTO has less interaction with the ILO than it does with UNEP.

Then WTO Director-General Renato Ruggiero surprised observers in 1998 when he said in a speech that the "Shrimp-turtle" Appellate Body decision "underlines the need to strengthen existing bridges between trade and environmental policies -- a task that would be made immeasurably easier if we could also create a house for the environment to help focus and coordinate our efforts" (Ruggiero 1998). Ruggiero did not explain why the task would be any easier, and no one has since then. The idea that the WTO would have been more ready to defer to MEAs or environmental exigencies had a WEO existed is naive. In the November 2001 Doha Ministerial Declaration, the WTO ministers endorsed continued WTO interactions with a multi-polar environment regime when the Ministers stated, "We welcome the WTO's continued cooperation with UNEP and other inter-governmental environmental organizations" (Doha Ministerial Declaration 2001).

While trade should be an important issue for UNEP and its institutional successors, trade is not itself among the most serious environmental problems. Thus, the challenge of grappling with the WTO would not be a sufficient reason to constitute a WEO. The case for a WEO needs to be made on environmental grounds.

Why a WEO Is Needed

A WEO is needed for two reasons: First, many ecosystems continue to deteriorate and the human environment is under serious, uncontrolled threats. Second, the processes of international environmental governance need rationalization.

While human stewardship over the earth's environment may not be disastrous, serious environmental problems exist that are not being adequately managed under current institutions (Hertsgaard 1998). In GEO-2000, UNEP concluded that "if present trends in population growth, economic growth and consumption patterns continue, the natural environment will be increasingly stressed" (UNEP 1999). The most serious problems include a massive loss of biodiversity, overfishing, depleted freshwater supplies, and global warming.

Before critiquing the environment regime, one should first note that environmental governance is far from being fully dysfunctional. UNEP has achieved a number of

successes over the years, particularly in catalyzing new MEAs (Tolba 1998). The systems for implementation review of environmental treaties are complex, yet the results are often significantly positive (Victor, Raustiala & Skolnikoff). In recent years, important new MEAs were negotiated on biosafety, persistent organic pollutants, chemicals and pesticides, and on the implementation of the Kyoto Protocol on climate change.

Nevertheless, environmental governance does not function as well as it needs to. The environmental treaties are often too weak to address the problem they were set up to correct (French 2000). Among the MEAs, there is a lack of coordination and missed opportunities for policy integration. At a recent meeting of Open-Ended Intergovernmental Group of Ministers, the President of the UNEP Governing Council reported that “The proliferation of institutional arrangements, meetings and agendas is weakening policy coherence and synergy and increasing the negative impact of limited resources” (UNEP 2001). These resources are not only limited but are also diminishing, and these cuts in UNEP’s budget are emblematic of the lack of confidence by governments in the current management structure.

One longtime observer, Konrad von Moltke, reminds us that at no time has the entire structure of international environmental management ever been reviewed with the goal of developing optimum architecture (von Moltke 2001b). The UN Task Force on Environment and Human Settlements reported that environmental activities in the UN “are characterized by substantial overlaps, [and] unrecognized linkages and gaps” which are “basic and pervasive” (Task Force 1998). If this is true even within the UN, it is probably much worse externally.

The Task Force reported further that environmental ministers are frustrated at having to attend so many different meetings, and that it was difficult for them to get the big picture. This is not surprising as nobody sees the big picture. The current scattered organization of environmental governance is confusing to experts and incomprehensible to the public. If an organization chart of world environmental governance existed, its incoherence would be Exhibit A for reformers.²

Joy Hyvarinen and Duncan Brack have keenly observed one symptom of governance failure—what they call the tendency to “recycle” decisions by having each new forum call for implementation of what the previous forum proposed (Hyvarinen & Brack 2000). All regimes do this to some extent, but it is particularly prevalent in the environment regime. Of course, the disorganization of environmental governance is not the only cause of recycling. Governments recycle when they cannot find anything substantive to agree upon.

The current incoherence in environmental organization provides reason enough for reform, but an even stronger reason exists, namely that the trend is for more

²The UNU Institute of Advanced Studies should consider commissioning a poster-size chart of current international environmental organization.

proliferation. The question of whether environmental governance should be centralized was discussed extensively in the run-up to the Stockholm Conference. For example in 1972, a special committee of the Commission to Study the Organization of Peace noted that “a new intergovernmental environmental organization” would provide “the best possible coordination” and would “adequately centralize all efforts” (Commission to Study the Organization of Peace, 1972). Yet the committee rejected that approach because “it would be difficult to persuade organizations to transfer their environmental functions to the new entity” Today, the same conundrum exists, yet the number of environmental functions that would need to be transferred to a WEO has multiplied ten-fold. Back in 1970, when George Kennan recommended the creation of an “International Environmental Agency,” he hypothesized that a single entity with great prestige and authority stood the best chance overcoming the formidable resistance from individual governments and powerful interests. As he analyzed it:

One can conceive of a single organization’s possessing such prestige and authority. It is harder to conceive of the purpose being served by some fifty to a hundred organizations, each active in a different field, all of them together presenting a pattern too complicated even to be understood or borne in mind by the world public (Kennan 1970).

Over three decades later, we live in the nightmare scenario that worried Kennan. The crazy quilt pattern of environmental governance is too complicated, and is getting worse each year.

In the Rio Summit in 1992, the governments had an opportunity to restructure environmental governance, but instead of doing so, they bypassed UNEP in new climate change convention and they created the CSD. At a meeting of experts held in Cambridge in May 2001, there was a consensus that on the whole, the CSD adds little value to the debate on sustainable development (Sustainable Developments 2001). Yet no one predicts that the CSD will be abolished anytime soon.

The problem is that the current system of environmental governance cannot correct itself. All of the trends point to continued proliferation, with little appetite by governments to thin out the ineffective institutions. The tendency toward expansion can be seen in recent reformist actions. Concerned about the fragmentation of environmental institutions, governments created *three* new ones to deal with the problem—the Global Ministerial Environmental Forum (GMEF), the Environmental Management Group, and the Open-Ended Intergovernmental Group of Ministers or their Representatives on International Environmental Governance. Of course, each of these institutions can be justified and they appear to be serving a useful purpose. But it is hard to escape the conclusion that unless governments take a big step toward creating a holistic WEO, the current governance architecture will get worse and the time-consuming dialogue on governance will remain open-ended rather than conclusive.

Organizing the WEO

Part II of this paper, with six sections, considers approaches to establish a WEO. Section A notes some unrealistic options for setting up a WEO. Section B presents two alternatives for setting up a WEO and dealing with UNEP. Section C examines several structural issues. Section D looks at the relationship between a WEO and the MEAs. Section E considers some key issues of WEO orientation. Section F lists several functions for a WEO and examines four of them.

Unrealistic Approaches

Before considering some conceivable possibilities for reorganization, one should start by dismissing some approaches that are politically unrealistic. The first is to create a WEO in the UN but separate from UNEP. The second is to create a WEO outside the UN. The third is to create multiple WEOs.

As von Moltke has pointed out, “UNEP must stand at the heart of any organizational restructuring of international environmental management” (von Moltke 2001b). This is perhaps unfortunate given UNEP’s problems. Yet even though it is often critical of UNEP, the environmental community is also intensely proud of it. In recent years, UNEP has succeeded in getting its status blessed by governments, and that is not likely to change. For example, the Nairobi Declaration of 1997 stated that UNEP “has been and should continue to be the principal United Nations body in the field of the environment” (Nairobi Declaration 1997). The Malmö Ministerial Declaration of 2000 stated that the World Summit of 2002 “should review the requirements for a greatly strengthened institutional structure for international environmental governance” and that “UNEP’s role in this regard should be strengthened and its financial base broadened and made more predictable” (Malmö Ministerial Declaration 2000). Thus, the approach of creating a WEO separate from UNEP is impossible.

Another impossible approach is to create a WEO outside the UN. Some commentators point to the WTO as a model for externalization, and it is true that many participants in the WTO believe that its non-UN status is a source of its effectiveness. Whatever the truth of that assessment for the WTO, the situations are hardly comparable because the trading system was traditionally outside the UN, while UNEP is inside the UN. Environmental issues are now pervasive throughout the UN, and it would be foolhardy to try to extract them.

The other option that is unrealistic is to create a quartet of new organizations. Von Moltke has written that “While it may be inappropriate to create a single WEO, careful analysis may reveal that we need three or four organizations” (von Moltke 2001a). What von Moltke means here, I think, is that clusters could be created of existing organizations. He gives the example of a marine pollution complex that might include UNEP, IMO, and the Convention on the Law of the Sea. But this would be a loose cluster of cooperation rather than a new organization. Looking ahead to

Johannesburg, governments will have a difficult time gaining a consensus to establish a WEO. The idea that governments would simultaneously design four new organizations is unimaginable.

WEO Organizational Alternatives

At this time, that there are two realistic organizational structures for a WEO vis-a-vis UNEP. The first is a WEO that adds new flanks to UNEP, with UNEP retaining its organizational identity. The second is a WEO that incorporates UNEP and in which UNEP eventually dissolves in the new organization.

The first option may resemble the Brazil-Germany-South Africa-Singapore Declaration of 1997, discussed above, which called for a global environmental umbrella organization with UNEP as a “major pillar.” Von Moltke has recently pointed to the option of establishing a WEO with UNEP as a division of it (von Moltke 2001b). This WEO could be created as a specialized agency pursuant to Article 59 of the UN Charter or could be a new type of agency more central to the UN. The Governing Council of UNEP might become the Governing Council of the WEO, but otherwise UNEP would retain its current programs and location in Nairobi. The remaining components of the WEO could include some MEAs and other environmental programs.

The second option would be to establish a WEO to incorporate the UNEP but with the intention of dissolving UNEP into the new organization. This WEO could be created as a specialized agency pursuant to Article 59 of the UN Charter³ or could be a new type of agency more central to the UN. The remaining components of the WEO could include some MEAs and other environmental programs.

What would be the implications of one approach versus the other approach? At this level of generality, it is hard to say much definitive. Either organization could be well funded or poorly funded. The transformation of the GATT to the WTO did not lead to a large increase in funding. Either organization could attract MEAs or fail to. Either organization could promote and utilize science well. Either organization could carry out monitoring and reporting. Either organization could strengthen MEAs.

One difference may be predictable however. The second option would provide for more reorganization and therefore stands a better chance of attaining greater program integration. Of course, putting issues within the same organization does not necessarily cause them to be integrated. For example, in seven years of operation, the WTO has done little to integrate consideration of goods and services (Sauvé & Zampetti 2000).

³This was the authority used to upgrade the UN Industrial Development Organization (UNIDO) into a specialized agency in 1985.

I have indicated that a WEO could be a specialized agency or something else. What else? Under Article 22 of the UN Charter, the General Assembly may establish such subsidiary organs as it deems necessary. Thus, it would be possible for the General Assembly to establish a new organization for the environment that is a hybrid. It could have some of the autonomy of a specialized agency while still remaining at the center of the UN. This could be justified on the grounds that environmental concerns are too intrinsic to the UN's mission to be assigned to a "specialized" agency (National Academy of Sciences 1972).

Structural Issues

The benefits of a WEO over the current structure will depend upon how the WEO is designed. Section C considers five structural issues. Perhaps the most important structural issue, the relationship of the WEO to the MEAs, will be discussed separately in Section D.

i. Role of Environmental Ministers

In 1999, the UN General Assembly Resolution 53/242 approved the proposal (of the UN Task Force on Environment and Human Settlements) to institute an annual, ministerial-level global environmental forum in which participants can gather to review important and emerging policy issues in the field of the environment. The first Ministerial Forum (GMEF) was held in Malmö in May 2000 as a special session of the UNEP Governing Council. The UN Task Force also recommended that membership in the UNEP Governing Council be made universal.

While periodic meeting of national environmental ministers can be beneficial to promote solidarity and serve as a forum for discussion, it is doubtful that such a large assembly could serve as an effective governing body. The establishment of a non-universal Governing Council for UNEP was intentional, although the size of 58 countries is rather large. Organizations without a governing body, such as the WTO, make decisions very slowly. The UN Task Force appeared to reach its recommendation for a universal UNEP Governing Council without any analysis.

The ILO structure achieves a good compromise between universality and effectiveness. The ILO Governing Body, with 28 nations, meets three times a year in extended sessions. The ILO also has an annual conference of all party states that adopts new conventions and effectuates other business. The ILO approach could serve as a model for a WEO because it integrates a workable governing body with a universal membership forum. It should be noted, however, that the ILO plans its work so that the annual conference adopts at least one new convention virtually every year. Thus, labor ministers do not have to worry about holding a conference that fails to accomplish anything. A WEO annual conference that produced nothing other than an empty declaration would soon lose the interest of the world, if not the environmental ministers themselves.

Another aspect of the ILO model is worth noting and that is that each government sends *two* governmental members in its delegation, as well as employer and worker delegates. The ability to send two delegates means that governments will be represented by a labor ministry official plus an official usually from another agency, typically the ministry of foreign affairs. This issue of representation may be even more important for a WEO because it would have a much broader scope than the ILO. The problem with just sending the Environment Minister to the WEO is that this person is likely to have less than full competence within the national government for all of the issues that come under the WEO's purview. One way of dealing with this problem may be for the WEO founding document to state that each government should send a delegation reflective of the division of authority within its government for environmental affairs.

The GMEF experiment is too new to evaluate. One can imagine a GMEF as the central decisionmaking body of a WEO, but it is hard to imagine the GMEF being fruitful if detached from an organization. It is one thing to organize G-7 and G-20 meetings with staffing by governments. It is quite another to attempt to carry out global environmental governance through that sort of a body. A danger exists that governments may settle on a GMEF staffed by UNEP as an inexpensive improvement over the current system.

ii. WEO Leadership

International governance does not follow the corporate model in which shareholders delegate authority to a board and chief executive officer. Governments have done so with the World Bank, the International Monetary Fund, and the UN Secretary-General to some extent, but are unlikely to do so with the Executive of a WEO. Thus, a WEO will be a member-driven, government-driven organization. Nevertheless, in designing the WEO, governments should look for ways to enhance the leadership capacity of the Executive of the WEO. Consideration should also be given to establishing a two-person Executive on the assumption that management and representational roles are both full-time.

iii. Participation by Elected Officials

International organizations today often have little or no participation by elected officials and this void has contributed to a deficit of legitimacy. This is not an easy problem to remedy because representation to international agencies has traditionally been viewed as an executive function. The establishment of a WEO, however, provides an opportunity to build in a role for national elected officials. The early role of the European Parliament might be one model for this, although some analysts might reject the analogy because even at its early stages, the European Economic Community sought more policy harmonization than there is a current consensus for a WEO to perform.

One possibility would be to establish a WEO Parliamentary Forum consisting of one elected official from each WEO member country. Each country could decide how that

person is selected. The role of the Forum would be to meet periodically to review the operations of the WEO. The Forum could hold a question period for the Executive of the WEO. The Forum might also invite other world officials to participate in its question period—for example, it could invite the President of the World Bank or the Director-General of the WTO. If such a Forum is established, a role might be found for associations of parliamentarians, such as the Global Legislators for a Balanced Environment (GLOBE).

iv. Nongovernmental Participation

As noted above, the idea of using an ILO model for nongovernmental participation in the WEO goes back to the initial discussions that led to the creation of UNEP. Sir Geoffrey Palmer reintroduced this idea in the early 1990s, when he suggested that each country be represented by two government delegates, one from business, and one from environmental organizations (Palmer 1992). In the recent debates, several analysts have suggested this same idea. For example, Runge proposes that the WEO have representatives from government, business, environmental groups, and other nongovernmental groups (Runge 2001). Esty has recommended a streamlined WEO supported by a network of government officials, academics, business, and NGO leaders (Esty 2000).

Because nongovernmental participation in a WEO is so vital, advocates of this feature need to be realistic. In my view, governments will not replicate the ILO model in which the nongovernment and government roles are equal.⁴ Similarly, governments are not ready to establish an organization in which nongovernmental organizations can lodge environmental complaints against scofflaw governments, as was proposed by Philippe Sands among others (Sands 1989, Kalas 2001).

The environment regime already has considerable NGO and private sector participation, and designers of a WEO can take advantage of this experience. NGO participation has often been constructive in the MEA setting where technical decisions are being made—for example, biosafety (Boisson de Chazournes & Thomas 2000). The very deep NGO participation in the CSD has been interesting to watch, but it has not been a constructive experience. The reason for this failure is not attributed to the NGOs, but rather to the fact that the CSD was not set up to make decisions.

Perhaps the best model for light nongovernmental participation is what occurs in the OECD. The OECD has business and trade union advisory committees that interact with governmental committees and can make recommendations. Although the idea has been discussed for years, the OECD has been unable to agree on any new advisory committees, such as one for the environment. It should also be noted that while the functions of the OECD are largely hortatory, it can draft binding treaties. It has enjoyed one recent success in the Convention on Combating Bribery and two failures on investment and shipbuilding subsidies.

⁴The UNAIDS Programme has a Programme Coordinating Board that serves as its governing body. The Board has 22 governments, 7 cosponsors (which are international agencies), and 5 nongovernmental organizations. But the agencies and NGOs are nonvoting.

One problem with establishing WEO advisory committees is that the CSD has now set the precedent of having the governments hear from a large number of “groups,” including women, youth, indigenous peoples, nongovernmental organizations, local authorities, workers and trade unions, business and industry, the scientific community, and farmers. Rather than set up homogenous advisory committees for these interests, the WEO might set up a heterogeneous advisory committee by cluster, based on some of the recent proposals for clustering MEAs. For example, the WEO could have an advisory committee for biodiversity that would include environmental groups, biologists, economists, indigenous peoples, and business. A well-respected organization might be asked to set up this committee—for example, the World Conservation Union (IUCN).

However nongovernmental participation is organized, it is vital that the WEO build that into its constitution. If the WEO is simply an upgraded version of UNEP that includes only governments and does not establish any strong roots into business and civil society, then the enormous effort and resources needed to set up a WEO will be a poor investment.

v. WEO Membership

Setting up a WEO as a new organization offers an opportunity to establish conditions for membership greater than statehood. The UN system has tended not to do this, and it may be impractical to do so for a WEO. One possibility is to require that WEO members agree to good environmental governance principles such as those in the Aarhus Convention on Access to Information, Public Participation in Decision-making, and Access to Justice in Environmental Matters. This Convention went into force on 31 October 2001 and has been lauded by the Secretary-General Kofi Annan as “the most ambitious venture in environmental democracy undertaken under the auspices of the United Nations.” Because Aarhus is a regional convention, it would be inappropriate for a WEO to require that governments subscribe to the specific provisions of that Convention.

Even if no substantial conditions are set for membership, the specialized agency approach would require governments to ratify a WEO treaty in order to join. This procedural requirement could serve a basis for some solidarity in the WEO in that every member would have taken an action to join.

WEO's Relationship to the MEAs

The most complex issue involving the proposed WEO is its relationship to the MEAs. This issue is central to the WEO debate. UNEP already serves as a secretariat to some of the MEAs, and so a WEO would have at least that function. But a driving force behind the WEO proposals is that the new organization should have greater responsibilities for coordinating MEAs than UNEP now does. (Even if no WEO ensues, governments are likely to take action to better coordinate the MEAs.)

Two distinct though interrelated issues need to be considered. First, what role should the WEO have with respect to the legal obligations in the MEAs? At the maximum, one could imagine a re-codification of international environmental law in which treaties on the same topic are grouped together, duplicative law eliminated, conflicting law reconciled, and eventually the hundreds of MEAs are reduced to a single code. Second, what role should the WEO have with respect to governance within each MEA consisting of conferences of the parties, subsidiary bodies, a commission, or a secretariat. At the maximum, one could imagine implementing French President Jacques Chirac's suggestion that UNEP "be given the task of federating the scattered secretariats of the great conventions, gradually establishing a World Authority, based on a general convention that endows the world with a uniform doctrine" (Chirac 1998). One month before Chirac's speech, the Task Force on Environment and Human Settlements had pointed to the possibility of establishing clusters of MEAs in which the MEA secretariats would be fused and an umbrella convention would be negotiated to cover each cluster.

The first issue, codification, is daunting yet progress may be possible. While the differences in parties for each environmental treaty would hold back the achievement of a general environmental law, some integration could be pursued following the steps of the ILO. For example, the ILO Declaration on Fundamental Principles and Rights at Work (1998) sets out a list of fundamental principles that all governments subscribe to even if they have not ratified the underlying ILO Conventions. The ILO also publishes a compilation of ILO conventions with a subject matter classification. This provides in one single reference series a picture of international law labor.

The second issue has drawn a great deal of attention, and there is now considerable support for the idea of setting up clusters of MEAs in order to promote better coordination among related MEAs. Clustering obviously would work better if the MEAs were co-located, but some coordination could probably be achieved by defining the cluster and promoting new linkages among the Secretariats and MEA subsidiary entities. Relocation would exact a policy cost—the loss of the alliance between the MEA and its "host" government.

The different membership in the MEAs should not be a barrier to a common organizational structure. In the ILO, the membership in each convention varies, yet the ILO provides a common mechanism for technical assistance, compliance review, and dispute settlement. In the WIPO, each treaty has a different set of parties, but the WIPO provides overall housekeeping functions and also promotes new negotiations among WIPO members. In the WTO, there are some plurilateral agreements (e.g., government procurement) with limited membership that are nevertheless part of the WTO.

If the WEO undertakes clustering, it should try to include all major MEAs, not just those associated with UNEP. A recent paper prepared on MEAs prepared by UNEP for the Open-Ended Intergovernmental Group limits its analysis to those MEAs associated with UNEP (Open-Ended Intergovernmental Group 2001). This seems narrow-

minded. The paper does include (in Table 4) a broader list of treaties, but this list leaves off important agreements on birds, turtle protection, seals, the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, the Aarhus Convention, and others.

Von Moltke has suggested two approaches to clustering of environmental regimes—one by problem structure and the other by institutions that occur in every environmental regime (von Moltke 2001b). Some examples of the first type are a conservation cluster and a global atmosphere cluster. Some examples of the second are science assessment and implementation review. Von Moltke's analysis is helpful in focusing on the two ways that MEAs can be concatenated. A WEO should try to do both of them.

The last issue to consider is how the WEO should embark upon the task of providing a more coherent structure for the MEAs. Juma has pointed to this as a problem, writing that

Secretariats of conventions cannot be combined without the approval of their respective governing bodies. Advocates of the new agency have not indicated how they plan to deal peacefully with the divergent governing bodies (Juma 2000b).

Juma's challenge deserves an answer, so let me suggest one. The WEO can simply open the door to the MEAs and invite them to cooperate with the WEO and consider joining the WEO's umbrella. Since all of the parties to an MEA will also be parties to the WEO, one can anticipate that many MEAs will accept this invitation. A precedent for this open door approach existed in the Charter of the International Trade Organization (ITO). Although the 1948 Charter did not go into effect, Article 87.3 established a procedure for an intergovernmental organizations concerned with matters within the scope of the Charter to transfer all or part of its functions and resources to the ITO, or to bring itself under the supervision or authority of the ITO. This precedent points to a spectrum of possibilities for how MEAs could relate to the WEO. Each MEA could work out its own initial arrangement although over time (if the WEO is successful) one might anticipate more convergence toward an optimal relationship.

Orientation Issues

Designers of a WEO will need to consider three basic issues of orientation. First, should governments establish a WEO or instead a World Sustainable Development Organization (WSDO)? Second, should the WEO focus on just global problems? Third, should the WEO have operational functions?

i. WEO vs. WSDO

Although a WEO could be very broad, one can imagine setting up an even broader World Sustainable Development Organization to encompass development as well as environment programs. Such an organization might incorporate UNCTAD, the UN

Development Programme, UNIDO, and the International Fund for Agricultural Development, among others. A commitment to sustainable development, however, does not entail forgoing organizations that focus on the environmental function rather than the development function (Esty 2001b). A successful WSDO would need to include the WTO and the World Bank, and that is obviously unrealistic.

ii. Global or Non-Global Scope

Esty and Maria Ivanova have suggested that the WEO be limited to “global-scale pollution control and natural resource management issues” (Esty & Ivanova 2001). They contrast “global” problems (such as the protection of the global commons) which should be controlled by the “GEO” with “world” problems, such as drinking water, air pollution, and land management which would not be covered. Their terminology is a bit confusing but one can distinguish between *global* problems (which require widespread participation to solve) and *shared* problems (which all countries have but some can solve them even if others do not). For example, corrupt government is a problem that many governments share, but it is not a global problem.

This aspect of the Esty/Ivanova conception of a WEO/GEO differs from that of other analysts. For example, Runge does not limit the scope of his WEO to global issues. For example, he suggests that it look at irrigation schemes involving the international transfer of water (Runge 2001). Biermann suggests that the WEO should look at outdoor and indoor air pollution (Biermann 2001).

The problem with a WEO for just the global commons is that it any decision about what is or is not global commons is somewhat arbitrary. Is biodiversity to be included? Are ocean fisheries? How about nuclear waste or other toxic waste? Are forests global because of their services to combat climate change, or non-global because they root within national boundaries? Lines can be drawn but they will remain debatable.

The Esty/Ivanova approach would seem to preclude a WEO mandate for regional issues like the regional seas programs. Yet it is interesting to note that the Task Force on Environment and Human Settlements suggested that attention by the global environmental Ministers to regional issues would be a good thing. Indeed, the Task Force suggested that the Ministers shift the venue of their meetings from region to region and that regional issues should feature prominently on their agenda (Task Force 1998). One wonders whether there would be enough of a constituency for a GEO that worked exclusively on global problems.

No easy answer exists to this conundrum about scope. Ideally, the WEO should be given duties that distinguish it from the national environmental agencies that exist in each country. Otherwise, the world agency will look duplicative to the national agencies. But this is an impossible standard to meet. All existing international agencies overlay national agencies. The Esty/Ivanova approach may do the best job of avoiding the conundrum because national governments could (in principle) delegate global problems to a global agency. Yet it should be noted that no existing major

international agency looks only at global problems. The mandate of the WTO, the ILO, the WHO, the FAO etc. are to work on problems that each country shares.

iii. Policy Versus Operations

Everyone agrees that the WEO should have policy functions, but there is a question of whether it should also have operational functions beyond data collection and dissemination. The operational functions at issue are capacity building and assistance to environment-related projects in developing countries (Levy, Keohane & Haas 1993, Biermann 2000). One possibility is to leave capacity building to existing UN institutions (such as the United Nations University and UNCTAD) or private institutions (like the LEAD program). The other possibility is for the WEO to do some capacity building if only to promote competition among capacity builders. For projects, the issue of how the WEO should relate to the project activities of the UNDP, World Bank, and the GEF depends to a great extent on what the scope of the WEO would be. Certainly at this time, there is insufficient attention at the international level to the need for greater investment in environmental infrastructure.

The WTO Doha Ministerial Declaration states that trade ministers “recognize the importance of technical assistance and capacity building in the field of trade and environment...” (Doha Ministerial Declaration 2001). Whether the WTO will undertake new technical assistance in this area remains unclear, but this WTO statement provides some possibilities for new WTO-UN collaboration.

WEO Functions

A WEO would have several important organizational functions including:

- Planning
- Data Gathering and Assessment
- Information Dissemination
- Scientific Research
- Standards and Policy Setting
- Market Facilitation
- Crisis Response
- Compliance Review
- Dispute Settlement
- Evaluation

All of these are important, but for reasons of space, only a few of them will be commented on.

i. Standards and Policy Setting

Some advocates of a WEO emphasize its legislative role in developing norms and setting standards. In that regard, advocates point to the WTO, the ILO, or the new WHO

Framework Convention for Tobacco Control. These are useful models, but the environment regime is not lacking in policy setting experience. Indeed, the environment regime has been perhaps the most innovative of any regime in using soft law and in building upon it (Contini & Sand 1972, Szasz 1992, Abbott & Snidal 2000). This is not to suggest that the environment regime has used all of the legislative techniques of the ILO or the WTO. Rather, my point is that a WEO can build on many of the techniques already in use in the environment regime.

ii. Market Facilitation

The idea that the environment regime could help countries exchange economic and environmental commitments is not a new one. In 1991, David Victor proposed that a General Agreement on Climate Change be modeled on the GATT (Victor 1991). In recent work, Whalley & Zissimos have proposed a bargaining-based WEO to facilitate deals struck between parties with interests in particular aspects of the global environment on both the “custody” and “demand” sides (Whalley & Zissimos 2001). These ideas deserve greater attention.

iii. Dispute Settlement

It is sometimes suggested that the environment regime would benefit from having a dispute settlement system like that of the WTO. Since this WTO-envy is fairly common, let me point out a few reasons why the WTO model would not be right for a WEO. First, the WTO system relies on dispute settlement rather than compliance review. This may be appropriate for a regime in which reciprocity is the central value, but it would not be appropriate for the environment regime which has substantive, measurable environmental objectives. For the environment regime, the compliance review procedures of the MEAs will be more effective because they are not as confrontational as those in the WTO and because they can be directly linked to technical assistance, which is largely absent from the WTO. Second, the WTO system is considered strong because there is a possibility of a trade sanction in the event of non-compliance. Such trade sanctions are counterproductive, however, and injure innocent parties (Charnovitz 2001). Third, the WTO model provides for dispute settlement within the WTO. While this internal adjudication model is not used in MEAs, it is used in the UN Convention on the Law of the Sea Convention which has its own International Tribunal. (Of course, this Convention is broader than environment.) The MEAs that do provide for dispute settlement typically provide for ad hoc arbitration or adjudication in a forum outside of the MEA (WTO Committee on Trade and Environment 2001). This could be the International Court of Justice, which has an unused environment chamber. Recently, the Permanent Court of Arbitration established a set of rules for the arbitration of disputes relating to natural resources and the environment (Permanent Court of Arbitration 2001). These arbitral procedures are available to states, intergovernmental organizations, nongovernmental organizations, and private entities.

iv. Evaluation

Organizations need regular evaluation, but this function must be carried out externally. Organizations cannot evaluate themselves. For example, if the UN Secretary-General wants an impartial evaluation of UNEP, then he should not set up a task force with the UNEP Executive Director as Chairman, as the Secretary-General did with the Task Force on Environment and Human Settlements. This Task Force concluded “that the United Nations system needs a strong and respected UNEP as its leading environmental organization” (para. 19).

Assessment of the WEO

Part III of this paper examines how the establishment of a WEO might improve the overall functioning of international environmental governance. It does so by looking at the five analytical priorities identified by the UNU Institute of Advanced Studies.

Improving the Current Approach to Governance

Compared to the status quo, the WEO would improve environmental governance by making it more coherent. There are two aspects to such coherence—internal and external. Internal coherence can be achieved by better coordination among UNEP, MEA clusters, and other agencies. External coherence is about the interface between the environment and other regimes, such as the WTO (trade and environment), the WHO (health and environment), the ILO (workplace environment), and the Security Council (biological and chemical warfare). A WEO would not be guaranteed to perform better than UNEP on external coherence, but it might help if the WEO constitution spelled out that function. On trade and environment, it is clear that both the WTO and the environment regime have gained from the interaction. For example, the term “MEA” and the view of the MEAs as a related system arose out of the trade and environment debate of the 1990s.

Not all governments will want to see such coherence however. For example, in the run-up to the WTO Doha Ministerial Conference, the G-77 and China issued a statement which, among various points, warned that “Developing concepts such as global coherence with other intergovernmental organizations like ILO and UNEP should be cautioned against as it may be used to link trade with social and environmental issues for protectionists purposes” (Declaration of the Group of 77 and China, 2001).

Strengthening the Interface Between Science and Politics

The best way to promote a fruitful interface is to have good, credible science. This requires separating science from politics on the research end at least. Whether the WEO would strengthen the interface between science and politics depends on the decisions made about structure, orientation, and function as detailed in Part II. UNEP has made some important decisions to promote a better interface—for example, in joining with WMO to set up the IPCC in 1988. The ultimate goal for a WEO would be to

convince governments that following international norms on environment is in their own national economic interest.

Improving Financing

More funding is certainly needed for international environmental governance. But one cannot say in advance that a WEO would be better funded than the existing organizations are. The best way to secure increased funding is for governments to perceive the WEO as well organized and effective. This is easier said than done however. The direct involvement of elected officials and the private sector, as suggested in Part II, might help in securing higher funding.

Increasing Participation

The environment regime already has more nongovernmental participation than any other regime.⁵ Nevertheless, it can be improved. In Part II, I have suggested that unless a WEO establishes a means for direct participation by business, environmentalists, and others, there would be little point in going to all of the trouble to create a WEO. Direct participation does not mean that governments have to share decisionmaking with private groups however. The goal should be for politicians to hear competing ideas so that they can make the best decisions.

Increasing Influence Over Policy

To increase influence over policy, the WEO must interpenetrate national government. The environment regimes consists not only of international organizations but also the national environmental agencies. For transborder environmental problems (which are a large share of the totality of environmental problems), all agencies must be pulling in the same direction. If national agencies are ineffective, then those failures will be felt outside of the country as well as inside of it.

The WEO should respond to this by working to improve environmental law and enforcement, particularly in developing countries. A second priority should be the relationship between economic and environmental policy at the national and international levels (von Moltke 2001b). The WEO needs to have a much greater effectiveness in influencing economic policy than UNEP has had. Some areas of focus should be investment, trade, debt management, taxes, and subsidies.

Conclusion

This paper has sought to promote a better debate on the question of whether governments should set up a WEO. In Part I, the paper explains that while some of the arguments for a WEO are not convincing, compelling arguments do exist for a WEO.

⁵The ILO provides for a policymaking role for workers and employers, but these are only a narrow part of the spectrum of interest groups interested in the work of the ILO.

The paper also explains that full centralization of international environmental affairs is impossible, and thus a WEO would entail partial centralization. In Part II, the paper discusses how a WEO might be organized, and emphasizes the need for an inclusive approach to a participation. The paper also examines the key question of how a WEO should attract the MEAs, and suggests that MEAs will want to associate with a well-functioning WEO. In Part III, the paper considers the benefits of a WEO compared to the status quo with respect to five analytical priorities. In conclusion, the potential effectiveness of a WEO depends on numerous factors. If properly designed, a WEO has the potential of making an important improvement in the environmental governance of our planet.

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