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# Inter-linkages

Strategies for bridging problems and solutions to work  
towards sustainable development

**Framework for MEA Cooperation**

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*This paper seeks to answer two questions. What are Multilateral Environmental Treaties for? Can they be made better?*

1. International treaties are an important basis for achieving co-operation between States. Multilateral Environmental Agreements (MEA's) are the best way of seeking a consensus on new commitments through negotiation (and for resolving any disputes that may arise), as these are situations of conflict. MEA's are not as effective in promoting the implementation of commitments, which requires co-operation, because any discussions, conclusions, or agreements within the framework of treaties elaborate the commitments, with implications for the future by taking the form of new commitments. Therefore, the purpose of linkages between MEA's should be programmatic: to develop synergies by facilitating integration of agreed environmental goals through co-operative measures – capacity building – to facilitate the development of national strategies for sustainable development.

2. Agenda 21 has established the framework for sustainable development. This political agreement focuses on international co-operation to influence development of national strategies, policies and laws through:

- Multilateral environmental agreements,
- Institutions (e.g. for investment projects) and
- Programmes.

3. *International co-operation in the field of sustainable development covers a range of institutional arrangements, and not just MEA's.* Implementation of MEA's relies on investments, technology transfer and programmes for capacity building.

### **FUNCTIONS**

4. Three characteristics of MEA's determine the manner in which they function.

5. Multilateral Environmental Agreements develop international environmental law as the basis for dealing with interdependence, based on the principles of

- Common concern,
- Common but differentiated responsibilities, or
- Common but differentiated responsibilities and respective capabilities.

6. *As treaties are tailored to specific problems, there is a tendency to build and operate regimes with no recognition of the existence of related regimes.*

7. The functions of MEA's centre around development and enforcement of rules and guidelines

- Setting standards based on scientific assessments,
- Seeking to modify behaviour through laws and other policy measures,
- Enforcing compliance with multilateral rules,

8. *MEA's do not address the issue or response measure directly.*

9. Different stages in the development of the treaty regimes affect its interaction with other treaty regimes, and can pass through a number of stages, where each stage may stretch over a long time span:

*Communication ----- Co-operation ----- Joint Action ----- Merger*

10. Sharing common perceptions and scientific, technical and socio-economic understanding of the problem as well as possible solutions can serve as the basis for joint decision-making, and co-operation between MEA's, through

- Integrated assessments of resource use patterns,
- Sustainable development strategies, including market mechanisms.

11. The scientific subsidiary bodies of the Climate Change, Biodiversity and Desertification Conventions have recently agreed to set up a joint working group to develop a common understanding of scientific issues. Such collaborative effort for developing sustainable development strategies with respect to capacity building has only just begun, and has yet to extend to the Global Environment Facility (GEF) - partly because of the different nature of commitments to provide resources in the complementary treaties, and partly because the focus of the scientific assessments remains the natural sciences and not social science research.

## **STRUCTURE**

12. The institutional arrangements under MEA's have three important elements which impact on any synergistic efforts to increase effectiveness, in terms of agenda setting, negotiation and implementation.

13. MEA's are regulatory regimes that determine the content of as well as supervise a States implementation of and compliance with that regime. The institutional arrangements comprise a Conference of the Parties, Subsidiary Bodies and Secretariat. MEA's have an independent legal character, but they are not Intergovernmental Organisations (IGO's), which serve common interests.

*Are the institutional arrangements crucial to effectiveness?*

14. MEA's have provisions to evolve and are also framework treaties because of lack or uncertainty of scientific knowledge concerning the environmental problem at issue and/or the lack of agreement on the action to be taken to deal with that problem when the MEA was concluded. In other areas of international law (human rights and arms control) meetings of Parties are "ad hoc conferences" not meetings for "treaty management".

*Altering substantive obligations is best done through ad hoc conferences or the COP?*

15. MEA's promote diversity, and 'soft law' measures serve as a catalyst for developing a treaty. IGO's have no role in developing the normative content or ensuring compliance with obligations. Both perform technical and specialised tasks.

*MEA's are fragmenting or system building arrangements?*

16. The negotiation of the Kyoto Protocol was done outside the framework of the regular subsidiary bodies of the Convention through the Ad-Hoc Group on the Berlin Mandate and the Buenos Aires Plan of Action. Capacity building is largely being done through the GEF, with the Subsidiary Bodies and Secretariat of the Conventions playing a supportive rather than a direct role.

### EXPERIENCE WITH IMPLEMENTATION OF MEA'S

17. The experience with the implementation of MEA's is that once there is agreement on what has to be done, programmatic elements rather than legally binding commitments play the decisive role in an effective response to the environmental problems. *International environmental commitments are not directly responsible for most changes in behaviour.*

18. The reporting and review requirements under treaties are considered important institutional elements in promoting effectiveness. Studies show that failure to report and inaccuracy in reporting results from administrative and technical difficulties, or personnel changes, rather than from deliberate refusal. There is a need to analyse, interpret and disseminate data, and not just compile data, as is usually done by secretariats. Implementation review can be conducted through decentralised processes; and not be secretariat driven. *Integrated databases common to a number of related conventions establish the basis for common scientific judgement and co-ordinated action.*

19. The conclusion of 14 case studies of how international commitments are implemented, shows that *building data systems, active participation by industry, financial transfers* in addition to increased use of non-binding legal instruments makes international environmental governance more effective

20. The experience with the implementation of MEA's shows that reliance on international law has been limited:

- The PIC system is non-binding; it permitted learning by doing.
- Role of NGO's is crucial in the RAMSAR Convention and in CITES.
- In curbing international oil pollution at sea, effectiveness resulted from rules requiring installation of specific equipment to prevent discharges of oil at sea and not from rules limiting discharges.
- The London Convention (1972) has shifted its focus from controlling dumping to integrated waste management; this relative success has occurred despite the fact that there is less than 50% reporting.
- CITES (1973) is highly effective in controlling international trade; it does not necessarily lead to the conservation of the endangered species.
- The effectiveness of the Montreal Protocol on Substances that Control the Ozone Layer (1987) owes a lot to the support of major industrial producers and the input from an expert technology and economic assessment panel, providing direct links with industry.

21. *There has been no agreement on binding consequences under the Kyoto Protocol; no MEA has binding consequences. The dispute settlement provisions have also not been used in any MEA.* On the other hand, the WTO has a strong normative

consensus, and binding judicial settlement is acceptable. MEA's do not have such a strong normative consensus, and require

- Flexible mediation procedures (panels),
- Involvement of non-State actors (outside the framework of the treaties), and
- Institutional arrangements with a programmatic character.

### SYNERGIES

22. Inter-linkages between MEA's must facilitate innovation and learning.

- Integration must lead to immediate, visible, beneficial effects.
- Not require special arrangements to make them work,
- Assign roles that transcend calculations of costs and benefits, and
- Establish procedures that acquire legitimacy.

23. The focus should shift from identification of environmental issues (what) and rulemaking (standards), to response measures (how) for internalisation of policies in national sustainable development strategies based on the principles of the Rio Declaration on Environment and Development.

24. The shifts required are:

CHANGE		FROM		TO
<i>Behavioural</i>	-	<i>regulation</i>	-	<i>instruments, best practices</i>
<i>Financial resources -</i>		<i>cost</i>	-	<i>investment</i>
<i>Technology transfer-</i>		<i>access</i>	-	<i>joint research, public domain</i>

25. Inter-linkages between MEA's can involve creating clusters, merging institutions, phasing out institutions and designing new institutions. The objective should be to promote *institutional, technological and economic forms of co-operation*, as environmental decisions at the national level are based on technological, economic, social and institutional circumstances.

### GOVERNANCE

26. International environmental governance for achieving sustainable development will include legal arrangements, institutions and processes (see table). Agreement on standards and specific, even small, goals is important, with implementation promoted by *UNEP as the hub* of the activities:

[1] Clustering of Conventions with strengthened linkages with the GEF, UNDP and CSD: to facilitate understanding of what is agreed, rather than negotiate new commitments.

[2] Shifting the focus from rule making to implementation – through development of integrated scientific assessments, policy options and understanding of market instruments.

[3] Agreement on a broad definition of capacity building - best practices and awareness building, and institutional development.

**FRAMEWORK FOR ENHANCING COOPERATION**

	<b>CONCERN</b>	<b>APPROACH</b>	<b>OUTCOME</b>	<b>ARRANGEMENT</b>
<b>DESIGN ASPECTS</b>				
CLUSTERING	Fragmentation, Proliferation of meetings	Clustering, joint meetings (of bureaus) – chemicals, biodiversity, water, oceans, climate	Common technical issues, lessons learnt	Focal institution for cooperation amongst Conventions, including at regional level and joint administration (on-going)
<b>FUNCTIONS</b>				
SCIENTIFIC ASSESSMENT	Ecological/environmental inter-linkages and analyses	Studies/ Groups integrating multiple perspectives	Common approaches and priorities related to the issues	Synergies amongst scientific bodies, natural and social sciences. (IPCC, GEO – 3, MILLENIUM ECOSYSTEM ASSESSMENT, IHDP)
POLICY COHERENCE	Coordination between Programme of UNEP, GEF, UNDP, CSD, Conventions, Ministries of Environment	Internalization of environmental concerns in national sustainable development strategies	Policy instruments and measures, including market mechanisms; knowledge net working	Ministerial Forum (CSD, UNEP, President/Bureaus of COP's)
IMPLEMENTATION	Capacity building, including major groups	Financial resources and technology transfer for compliance	Best practices; awareness building; synergies: institutional development at national level	Joint Working Groups (Chairs of subsidiary bodies, reps. of GEF, Regional Commissions, UNEP)