

# **The Road to Earth Summit 2002**

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# FOREWORD

Next year's World Summit on Sustainable Development in Johannesburg, South Africa, will not only review the progress of Agenda 21 and the Rio Conventions, but will have to reassess the principles of the Rio Declaration in the context of globalization. Globalization has confronted us with a whole new set of development challenges. The Johannesburg Summit provides us with a unique opportunity to put sustainable development at the top of this agenda.

Here are three reasons why:

1. The World Summit on Sustainable Development has already attracted the attention of heads of states and governments. This will not be another meeting of the—quite often—minoritized environment and development communities in our countries, but involve governments at the highest level.

In the Republic of South Africa, the media will find a symbol of great strength for the development needs of the world. Society as a whole, NGOs and other major groups, who have been involved in negotiating the Rio conventions or practicing sustainable development on the ground will have a chance to reconnect to the big picture.

2. A broad range of ongoing international and national activities should be focused toward the Johannesburg conference. This includes:

- international negotiating processes, like the international trade talks that resume in Qatar this autumn or the negotiations about the future of the Kyoto protocol;
- national activities and action plans, like the German CO<sub>2</sub> reduction program; this is the moment to review progress being made and to make new national commitments to the global public;
- experiences that were made in grassroots sustainable development projects, in local agenda 21 initiatives or in the local struggle with the impacts of globalization should be shared with partners from all over the world.

3. Because we are painting the big picture in Johannesburg and because we have the attention of heads of government, we might be able to solve problems that were difficult to overcome politically, if not in substance in a package.

- We should try to reconcile the sustainable development agenda with the poverty agenda;
- We can start negotiations to overcome conflicts between the objectives of trade and environmental protection;
- We can solve deadlocked negotiations like on the Kyoto Protocol in a broader context.

All this can only be achieved if we cut a new deal for environment and sustainable development. This New Deal has to include the following:

- finishing open business of the Rio process like ratification of the Kyoto Protocol on Climate Change and the Cartagena Protocol on Biosafety
- addressing the gaps of Agenda 21, like a sustainable energy strategy
- meeting the new challenges of globalization e.g. in trade and finance
- finding ways to improve financing for sustainable development and eliminate poverty
- strengthening institutions for sustainable development

This publication summarizes the deliberations of our conference “The Road to Earth Summit 2002” on April 20, 2001, in New York City. The agenda of Johannesburg is still in the making. The articles in this publication will contribute to it.

Sascha Müller-Kraenner  
Director

September 2001

# Perspectives from the German Ministry for the Environment

*Jürgen Trittin*

*German Federal Ministry for the Environment,  
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On our planet almost everything is finite. There is finite water for drinking, air for breathing and land on which to live; the habitats for plants and animals are finite. Spaces in which to escape from environmental pressures are also finite.

But one thing is not finite: the human mind, the capacity of human beings for innovation and creativity. This capacity has, in the past, all too frequently been employed at the expense of our planet and its inhabitants.

We should now put this behind us. Let us instead use our skills and knowledge in the future only to the benefit of the earth and its inhabitants. Let us apply our expertise and know-how to meet the—very real and therefore legitimate—needs of the whole of humankind with the lowest possible drain on resources. Ever since the 1992 Earth Summit the term “sustainability” has been on everyone’s lips. It stands for ensuring that “the needs of the present are met without compromising the ability of future generations to meet their own needs.”

Yet the search for the “right” path towards achieving sustainable development and the formulation of concrete policy requirements has divided experts as well as politicians. What is beyond dispute is the need to pursue ecological effectiveness, economic efficiency and social acceptance as mutually compatible goals.

In my opinion, the most important magnitude influencing any future scenario is the expected development of the world’s population. We have now passed the six billion mark. In twelve to fifteen years there will be another billion people to count, and in about fifty years world population will stand at some twelve billion. This growth is occurring almost entirely in the developing world. Thus, by 2025 approximately 85 percent of the world’s population will live in the countries of the South.

All these people need not only food, drinking-water and space to live and work; they also need access to modern forms of energy, especially electricity. But where is the food and drinking water to come from if desertification increases and soil degradation on arable land continues? And how is Creation, or in scientific terms genetic diversity, to be safeguarded in the face of ongoing urban sprawl, destructive exploitation of forests and the intensification of agriculture needed to satisfy demand for more food, if these developments pose a dramatic threat to the last remaining natural habitats?

A destroyed environment threatens sustainable economic development and social justice. Protection of the environment and the natural resources is therefore a prerequisite for a development that is viable for the future.

- The growing world population is closely linked to the fundamental problem of poverty. About one-quarter of the people live in absolute poverty, i.e., they have less than one US\$ per day. For peace, democracy and for the environment poverty is the most toxic poison of the world. On the one hand environmental destruction increases poverty, e.g., poorer soil quality leads to lower agricultural returns. On the other hand, poverty often results in destruction of the environment, e.g., poor access to fertile soils leads to increased felling of primary forests and thus to the loss of natural resources. Just two weeks ago, the German government decided to focus its development cooperation even more on the poverty issue. Let me remind you also that two years ago, Germany launched a new debate on the issue of debt relief.

Let me also add a few words on strengthening UN structures in the sectors of environment and sustainable development. This sector needs urgent reform in order to deal effectively with the challenges for the environment. In my opinion, two factors are essential:

- Strengthening UNEP, i.e., evaluating the currently debated options including the creation of a World Environment Organization. This will give the environment a stronger voice within the United Nations.
- The second important issue is financing. Such a restructuring must have a solid and suitable financial basis and should not be dependent on voluntary contributions.

One of the most pressing global environment problems is climate change. It is already occurring and it is undoubtedly caused to a considerable extent by human activity. Even if we were immediately able to reverse the trend in CO<sub>2</sub> emissions, the earth's atmosphere would continue to warm up. Therefore, the industrialized countries have to change, without delay their energy policies.

Let us take a look at the current situation:

- In the Kyoto Protocol industrialized countries made a commitment to reduce their greenhouse gas emissions over the period 2008 to 2012 by a total of at least five percent below the 1990 level.
- However, current emission trends are going in the opposite direction. Let us take for example the EU: greenhouse gas emissions are declining only in Germany, in the United Kingdom and in Luxembourg. Other industrialized countries in the Western world show rapidly growing greenhouse gas emissions.

- The potential for greater efficiency around the world has by no means been exhausted.
- The contribution of renewable energy sources to worldwide energy supply is still extremely small. We share the view of some major energy producers like Shell and BP/AMOCO that it is possible to raise the share of these environmentally sound energy sources to fifty percent within the next fifty to sixty years.
- Today's energy supply is based in part on extremely risky options such as the use of nuclear power. It is my firm conviction that we do not need this large-scale technology at all to supply the energy needs in the industrialized countries or to enable developing countries to extend their population's access to electricity.
- The use of nuclear energy can never be a sustainable solution. No country up to now has found a solution to the problem of nuclear waste. This unsolved problem places a heavy burden on future generations.

Many countries plan to develop their nuclear industries in the hope that this will help to protect the climate. I can only issue this warning: with nuclear energy we pursue a technology which favors further CO<sub>2</sub> emissions in other sectors, thus blocking the change to a sustainable energy policy.

But: what are the essential elements of a new energy approach?

- Increasing energy efficiency.
- Saving energy.
- Strengthening the use of renewable energies.
- That means in concrete terms:
- Renewable energy must be expanded to cover about 50 percent of energy consumption within the next fifty years.
- Energy productivity is to be doubled as compared to today's average annual rates.
- Energy efficient technology is already available, but it is not used sufficiently.
- Amongst them are highly efficient combined-cycle plants, co-generation, fuel cells, new highly efficient heating boilers, energy-saving light bulbs, low-energy-houses and cars requiring only three liter per 100 kilometer. We have to speed up the pace of market penetration.

But we do not have to address the change of energy supply only in developed countries. We also have to address the needs of developing countries: Today, one third of the world's population has no access to electricity.

CSD 9 offers an excellent forum for discussing viable solutions to implement a sustainable form of energy policy in developed and developing countries.

With regard to the World Summit in Johannesburg we are calling for the preparation of concrete recommendations for action for a sustainable energy policy. We consider it helpful that these recommendations for action should be geared very precisely to the respective state of development. There should be specific recommendations for the OECD countries, for threshold countries, for developing countries and for least developed countries. In concrete terms, such a set of state-of-the-art recommendations would present a service for all those involved.

Let me briefly outline what we are doing in Germany. Within the last two years the new German government has created fundamental foundations for a future-oriented energy supply that shifts energy policy from the fossil-fuel age and the nuclear age towards the solar age.

Our national climate protection program updated in October last year contains *inter alia* the following measures and targets:

- In 1999 we have introduced an Eco-tax.
- In an agreement with the energy supply companies the German government has begun the phase out of nuclear power, to take place within the next eighteen years.
- The German industry committed itself to make special efforts to reduce greenhouse gas emissions by twenty-eight percent by 2005 and thirty-five percent by the year 2012.
- The German Government decided to double the share of renewables within the next ten years.
- The Renewable Energy Act provides fixed prices for electricity produced by renewables.
- We launched a market incentive program for renewable energies, which provides DM 300 million per year.
- The 100,000 solar roofs program gives economic incentives for photovoltaics.

The new energy policy already shows considerable success.

The solar energy industry is booming. The German demand for photovoltaics now exceeds the European production capacity.

Wind energy in Germany achieved approximately 6,100 MW by the end of 2000. This equals over two percent of the total electricity production in Germany—this represents fifty percent of the EU production and thirty-five percent of the global production.

Altogether about 70,000 jobs have been created in the renewable energy sector so far.

Transport is another key issue in climate policy. To improve the rail and road infrastructure, we have made a budgetary allocation totaling twenty-six billion marks up to 2003 and about seventy-five billion marks up to 2010. Besides these funding programs and the Eco-tax, the German government is planning a distance related charge on trucks, to be levied from 2003.

Buildings also possess considerable potential for a more efficient use of energy.

The new Energy Saving Ordinance, which is to enter into force by the beginning of next year at the latest, will reduce the permitted energy consumption of new buildings by around thirty percent. Furthermore, in the period 2001 to 2005 the German government will provide a total of two billion marks for a credit scheme designed to trigger investments worth approximately ten billion marks. Together, these two measures will effect an additional reduction in CO<sub>2</sub> emissions of at least ten million tons per year by 2005.

Germany is on track to fulfilling her target to achieve a twenty-five percent reduction in CO<sub>2</sub> emissions on the 1990 level by 2005.

Between 1990 and 2000 CO<sub>2</sub> emissions were cut by fifteen percent, whilst the emissions of all greenhouse gas emissions have been reduced by more than eighteen percent. In absolute terms, this is a reduction by 190 million tons of CO<sub>2</sub> equivalents.

I would like to underline that our climate protection program is based only on measures leading to real reductions. We will not rely on juggling the figures by including sinks and other loopholes in the calculations. Germany is making a considerable effort to remain at the forefront of the fight against climate change.

If we were asked whether the measures we have adopted so far constitute a sufficient response to the challenges of sustainable development and climate change, my answer will be clear: No they aren't!

Our efforts must continue beyond the 2012 targets. This is not only an economic but also a political problem. Scientists have calculated a savings potential up to forty-five percent for 2020. To exploit this potential, investment and the willingness to change consumption and production patterns is necessary. We need the support of the people in particular because private households and the transport sector emissions show increasing emissions rates.

In a global world such a process can only be organized on a global scale. We need actors to lead the way—and Germany is trying to be at the forefront of climate protection. Nevertheless, Germany alone cannot solve the global problem. Furthermore, going it alone would have negative impacts on the competi-

tiveness. We therefore need a binding regulation under international law. Within the framework of such an international agreement we must, and shall, undertake ambitious commitments for the period beyond 2012. We expect our partners in the industrialized world to acknowledge our joint responsibility.

I am—and with me the entire world—in great concern about the new position of the US government. The United States has declared their willingness to combat global warming. We will make every effort to ensure that the United States will join us in striving for that goal on the basis of the Kyoto Protocol.

The Kyoto Protocol is the only basis to establish a worldwide climate regime. It is the only basis, which offers the opportunity in the medium term to involve in particular the threshold countries. And, the implementation of the Kyoto Protocol will provide a lot of economic opportunities. Those who ignore Kyoto will miss the chance for positive developments with regards to economic growth and employment.

Our experience in Germany shows clearly: climate protection creates jobs. According to a very conservative estimate by an economic institute, up to 200,000 jobs can be created in the period 2000 to 2020.

I expect from the World Summit a strong impetus for a complete restructuring of industry and society. There is a need for broad participation of the whole society. NGOs have an important role to play in defining the requirements for a sustainable development. Therefore, I call on all NGOs to participate in the preparations for Johannesburg.

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## **The Long March to Johannesburg - Successes and Challenges for the Upcoming Summit**

*Ralf Fücks, Heinrich Böll Foundation*

If we look back to the first environmental summit held in 1992 in Stockholm and the beginnings of the international green movement we are on a long march towards sustainable development, a march with heights and depths, successes and setbacks. The forthcoming Johannesburg Summit will be a major intersection on this long march: will it become a funeral of our hopes or an encouraging and inspiring momentum like the Rio Summit ten years ago?

No doubt, in spite of the huge gap between words and deeds in the last decade Rio was a milestone pushing sustainable development in the center of the international political agenda and encouraging thousands of NGOs, politicians and scientist all over the world to extend their efforts on all levels of political action and concrete projects in their communities, in the national and the international arena.

I am just coming from the first global green summit in Canberra, bringing together green parties and movements from more than sixty countries. It was really an impressive experience that the greens have grown to such a global network. Beyond our different political, cultural and historical backgrounds we share three basic principles:

- we defend the universal validity of human rights;
- we speak up for participatory democracy;
- we are committed to the Rio principles of sustainable development, a specific combination of environmental protection with intergenerational and international justice.

In the run up of the global green summit in Canberra our foundation held a workshop on Rio+10, joined by some 150 participants from more than eighty countries. We worked out and passed two resolutions, one on the general expectations and targets for the Johannesburg Summit, the other more specific on Climate Change and the Kyoto Protocol. The message to the now government of the United States was clear and unanimous: you may have the power to disregard your international responsibility to reduce greenhouse gas emissions as long as the American voters allow you to do so. But you shall not have the power to blow up binding international commitments on climate protection and to prevent the international community from establishing global sustainable governance.

Before giving the floor to our distinguished speakers, and thank you all for being here at our conference, I would like to briefly point out five of the core messages with view to the Johannesburg Summit:

1) The upcoming World Summit on Sustainable Development will create a unique opportunity to develop a new global alliance between the South and the North that must not be missed. If the outcome is nothing other than paperwork and lip-service, we will risk losing our race with time to stop the ruin of ecosystems and the social degradation of a growing number of people.

2) We demand joint efforts to overcome the environmental crisis and to support the poor by enabling them to live in dignity. So the World Summit in Johannesburg must address all three dimensions of sustainable development: the environment as well as the social and economic challenges, including the issues of financing for development, diminishing the debilitating debt burden on most developing countries and improving access of people to resources and economic decisions. This seems to be crucial to restore the credibility of the Rio process.

3) We demand that the Johannesburg Summit must bring the unresolved issues of the Rio Conference in 1992 to concrete binding resolutions at the latest. This includes the Kyoto Protocol as well as the Conventions on Biological Diversity and Desertification and a joint effort to protect forests as a fundamental issue for biodiversity, desertification and the climate. We already have the vision and the agenda for sustainable development. What we need now most urgently is concrete progress of action

4) We demand that the legal and administrative capacities of supranational bodies like UNDP and UNEP will be reinforced to strengthen international sustainable governance, to develop a legal and institutional framework to control and limit the expansive dynamics of the global market and to establish a new political regulative after the years of market driven deregulation.

5) The success of Rio+10 will depend to a large extent on the quality of the process that takes place prior to the summit. It is therefore necessary to develop a preparatory process on a broad, participatory basis, involving all stakeholders—not only big government and official institutions—but also civil society, the media and the business sector. Civil society has to be encouraged to participate through broad information and a transparent preparatory process.

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# Perspectives from the German Ministry for Economic Cooperation and Development

*Uschi Eid, German Federal Ministry for Economic Cooperation and Development*

## I. Introduction

Every time I come to New York I am immediately struck by the pace, the lifestyle and the consumption patterns of the people in this huge city. I wonder whether this will be the future for our whole planet? Can we all adopt this lifestyle, can we all consume, commute, spend our free time, use resources, and accumulate waste in this manner? Will this be sustainable in the long run?

The UN Millennium Summit reaffirms the commitment to UNCED's concept of sustainable development. There is some doubt as to that. It was also here in New York that only a few months ago heads of state, politicians, diplomats and nongovernmental organizations came together for the Millennium Summit of the United Nations.

Secretary-General Kofi Annan presented his Millennium Report containing alarming observations and an urgent call for action. He stated that the founders of the United Nations in 1945 could not have anticipated the challenge we face today: we need to realize a third freedom in addition to freedom from want and freedom from fear: "the freedom of future generations to sustain their lives on this planet. [But] we have been plundering our children's future heritage to pay for environmentally unsustainable practices in the present."

He further observed that "the natural environment performs for us, free of charge, basic services without which our species could not survive." Hence, "our goal must be to meet the economic needs of the present without compromising the ability of the planet to provide for the needs of future generations."

His plea takes up the discussions of the Earth Summit in Rio in 1992. Ever since, if not for longer, we have been aware of the close interrelationship between environment and development. At UNCED, 178 heads of state committed themselves to a new development paradigm: sustainable development, that is, the integration of environmental, social and economic issues. At Rio we also concluded that global problems could only be solved by joint action on the part of the international community and by the broad participation of citizens at every level of society. Since then we have learned that the latter is key to good governance, both with regard to processes and to institutions.

In our development policy strategies and instruments, we consider the promotion of good governance, democratic structures, and human rights, as well as gender equality, a fourth dimension which complements the triangle of sustainability.

## II. State of the World

Where do we stand now as the preparatory process towards the World Summit on Sustainable Development in 2002 unfolds? The latest reports on the state of the environment show alarming findings: climate change is more dramatic than we expected, soil erosion and other land degradation as well as the loss of forests are continuing at a rapid pace, many species of plants and wildlife are becoming extinct, water resources are getting scarce in many regions of the world.

But there are more facts to note, for—as I said before—sustainable development is not only about the environment. The scourge of hunger and extreme poverty is still a bitter reality for more than a billion people on earth. The gap between rich and poor has widened. Some countries are completely losing touch with the world economy and are excluded from the benefits of globalization—the digital divide is just one facet of this exclusion.

Rio+10, the World Summit on Sustainable Development, which the international community is preparing for summer 2002 in Johannesburg, will have to deal with some key questions:

- Have we been determined enough in pursuing the principles and goals of UNCED, including the concept of “sustainable development”?
- Is this concept still valid, and how does the process of globalization affect it?
- What is the impact of the revolutions in technology, biology and communications that have taken place since Rio?
- What further steps are necessary to implement sustainable development at the local, national and international levels? Do we need to devise new instruments, create new alliances?

To make the upcoming Summit a success, we will need careful and sound negotiations and preparations, but also a strong and clear commitment to the goals and principles of Rio on the part of the industrialized countries. Current patterns of consumption, as we all know, are profoundly unequal and unjust, so the industrialized countries have to be prepared for considerable changes in their way of life and production, and they have to agree to concrete steps in this direction.

To my mind, only then will we be able to overcome a certain deadlock in many international negotiations that are presently dominated by the much-deplored “broken promises” and repeated calls for additional financial assistance. I am not saying that this is all we need to do—on the contrary, I believe that developing countries are crucial partners in the process of achieving sustain-

able development. But this has to do with credibility and our preparedness to live up to the spirit of Rio's principle of shared but differentiated responsibilities.

The Green political party has played a crucial role in bringing the principle of sustainability into the German political arena. We are happy to report that the government recently started drafting the German national strategy for sustainable development and that the cabinet has named a committee of renowned advisers. While the Rio commitments remained pure theory under the former government and then Chancellor Helmut Kohl, we started to put them into practice!

### **III. Key Issues of Concern**

I will now address some of the issues on which I believe the World Summit should bring about progress.

#### **A. Climate Protection and Sustainable Energy for All**

The latest IPCC report has shown once more, in an alarming way, that it is necessary to make a fundamental adjustment internationally in the course pursued so as to prevent, or at least reduce, the negative effects it is predicted that climate change will have on the natural environment and on human beings. It is clear in this context that the people of the world's poorest regions are threatened the most—for instance by extreme weather events or the spread of tropical diseases in the wake of climate change—even though they are certainly not the ones who have caused the climate disaster. For instance, per capita CO<sub>2</sub> emissions in India are not even one-tenth of per capita emissions in the U.S.<sup>2</sup> Yet greenhouse gas emissions are rising rapidly and will soon account for half of the annual emissions.

What we need as a matter of urgency are binding agreements on a limit on emissions in the industrialized countries that damage the climate, and some initial action to adjust to climate change—the latter especially in the poorest regions. At the same time, there is a large demand for energy in the developing countries, which will need to be met in the most environmentally compatible manner possible. Reliable supplies of energy is a topic which is high on the agenda of the developing countries in particular and also offers many openings for synergies with climate protection.

Development policy is already making a contribution to sustainable energy supply in developing countries and, simultaneously, to climate protection, for instance by supporting renewable energy. The Federal Ministry for Economic Cooperation and Development (BMZ) provides about DM 200 million per year to that end. Support is also given to measures for energy efficiency and to energy sector policy reform. Moreover, Germany is the third largest contributor to the GEF, which supports the protection of global environmental goods, such as the climate, biodiversity, or international waters.

One important contribution is also intended to be made in the future by the CDM (Clean Development Mechanism) of the Kyoto Protocol. The CDM is an instrument, which allows the industrialized countries to undertake projects in developing countries and to be credited with the relevant reduction of emissions. Germany advocates clear rules for the CDM because only then will it be possible to achieve real reductions in emissions and to make a contribution in the developing countries towards sustainable economic practices.

Since it is absolutely vital that action be taken on a global scale, but also because of the opportunities implied by climate protection, we continue—in spite of the most recent developments—to pin our hopes on the conclusion of the negotiations on the Kyoto Protocol and ratification in 2002. We hope that all parties to the Framework Convention on Climate Change will take part in that effort in a constructive manner, including the United States.

## **B. Water—An Issue Affecting our Future**

After the risk of climate change, the freshwater crisis is the greatest ecological threat of our time. On the one hand, demand for freshwater increases with population growth and urbanization. On the other hand, water is getting more and more scarce as ecosystems are seriously damaged or destroyed by overexploitation and pollution. As it stands, 1.3 billion people have no access to clean water. Twice as many have no adequate sanitation facilities. Children, women and small farmers in particular are affected by the lack of water. World Health Organization data shows that approximately eighty percent of diseases and one-third of deaths are attributable to polluted water and lack of hygiene.

And the water crisis is more than an environmental issue—water shortages are already a source of tension and conflicts between nations, and this is likely to get worse in the near future. An Oslo based peace and conflict research institute has found that disputes over access to water and land are amongst the most important structural causes of conflict. Conflicts over water may become a threat to world peace.

Therefore, water must be put prominently on the international agenda. Some progress has already been made in this regard: water is a major issue for international debate. The urgent need to take action has just been emphasized in the United Nations Millennium Declaration, in which heads of state committed themselves to halving, by the year 2015, the proportion of people who lack sustainable access to adequate sources of affordable and safe water and to end the unsustainable exploitation of water resources.

The implementation of this objective is a focal area of our development cooperation. While developed countries mainly need to reconsider their consumption patterns, developing countries need to introduce, at national, regional and local levels, appropriate water management strategies that promote both equitable access and adequate supplies. An issue that is closely related and often neglected is wastewater treatment, for we mostly find that where waste-

water treatment is inadequate, hygiene is below standard and scarce water resources are polluted and wasted. In the future, we hope to be able to draw even more on German know-how in this area and to develop appropriate technologies.

Germany is active in promoting global and regional water dialogues. In order to assist with clarifying remaining questions in this field, Germany will be hosting an “International Conference on Freshwater” in Bonn in December 2001 with which we hope to achieve real progress with a view to a Rio+10 Summit document.

### **C. Combating Poverty**

Poverty is both a consequence and a cause of the scarcity and destruction of resources and of increasing violent conflict, growing migration, and displacement. Because of the close links between economic and social development on the one hand and the use of environmental assets and resources on the other, poverty reduction is not just a matter of ethical and moral responsibility and international solidarity but also a contribution towards securing the future for ourselves and for future generations. Federal Chancellor Schröder announced at the Millennium Summit that Germany would be submitting a Program of Action on poverty reduction. Just a few days ago, the German Cabinet adopted the Program, which was drawn up under the lead of BMZ. It makes all Ministries part of this epochal task—not just development policy. It contains concrete statements on how to fight extreme poverty worldwide and what contribution we in Germany can make to halving the proportion of people living in extreme poverty by 2015. What is vital now is to apply all our energies and our dedication to implementing this Program of Action!

### **D. Fair and Environmentally Sound Trade—A Precondition for Sustainable Development**

Some people see the General Agreement on Tariffs and Trade (GATT) and the WTO system as detrimental *per se* to the cause of sustainable development. I would personally not go so far, but it is also my opinion that we need more discussion on the connections between the multilateral environmental agreements and GATT/WTO, especially on the interpretation of Article XX of the GATT, which allows the regulation of trade in products that could pose a serious threat to humankind and the environment.

The issue at stake is whether process-oriented standards can be acceptable in addition to product standards. And certainly the GATT/WTO system, including the dispute settlement body, needs to take account of the precautionary principle that has become widely accepted since Rio. Therefore, the next round of WTO negotiations needs to be a “sustainable development round.”

In this next development round, the agenda should also include topics which are relevant from the developing countries’ point of view, such as tariff escala-

tion, trade in products which are banned domestically, or subsidies in the transport sector. One important issue in the discussion on international trade is constituted by social standards and, especially, what is called the social clause. We know that many developing countries fear that a social clause may be a gateway for protectionist ambitions of the industrialized countries. They therefore reject the introduction of such a clause. We need to broaden the debate and ask how trade can foster social standards using positive incentives.

In this connection, we pin our hopes, in particular, on voluntary instruments such as labels and codes of conduct for fair and environmentally friendly products. Experience suggests that these voluntary instruments have a huge potential to foster improvements in socially and environmentally sound production methods—and that they appeal to consumer responsibility. My Ministry supports such labels and codes by assisting labeling initiatives such as Rugmark, transfair, FIAN's Flower Label, certificates for sustainable forestry and others, as well as by promoting the dialogue between company, consumer, union and civil society representatives. We also sponsor capacity building measures that assist developing countries in introducing and monitoring fair and sustainable production methods, such as organic farming.

### **E. Financing Sustainable Development: What Can We Achieve?**

In order to finance sustainable development, we need to activate all resources conceivable. In the international debate, the focus is, from the point of view of many developing countries, on external sources of funding. The industrialized countries are clearly committed to their responsibility as donors. However, given the dimension of the effort we also need to point to the developing countries' own capacities. We are jointly working to see how they can be supported in making better use of their great potential of domestic resources: tapping savings and public revenue and fighting capital flight, strengthening financial systems and also formalizing property rights so as to mobilize assets which the poor can use as collateral.

Trade is another option for the developing countries to contribute to their own prosperity. We therefore advocate that the developing countries' interests be accommodated in the new WTO trade round, which is referred to as a "development round."

Additional funding for poverty reduction and environmental protection is being mobilized as part of debt relief agreements. The debt relief initiative for heavily indebted poor countries proposed by the German government at the 1999 G8 Summit in Cologne is helping to ensure that the developing countries no longer have to spend a large portion of their gross national product and their export earnings on debt service.

I am glad that the various sources of financing for development are being discussed in combination in the preparatory process for the International Conference on Financing for Development under the auspices of the United Na-

tions. The World Bank, the IMF and the WTO are actively involved in that process. The Conference, which will take place in Mexico in spring 2002, should by all means increase the range of shared views, because a negative outcome of the Conference would place a considerable burden, among other things, on the World Summit on Sustainable Development to be held in South Africa in September 2002.

## **F. Strengthened International Governance: Do We Have a Vision?**

The World Summit will also discuss aspects of an institutional reform. From my point of view, it would be important, however, not to narrow down this discussion too much and to include in it the current debate on a broader reform of the UN Economic and Social Council (ECOSOC). Moreover, I believe that it is necessary to take a more coherent approach to the implementation of the results of the World Conferences of the 1990s than at present. For example, we need to break with the present pattern of mechanically holding follow-up conferences every five years. The Millennium Declaration endorsed the outcome of these conferences and could be used as a point of departure for an integrated and coordinated UN follow-up and as a means of emphasizing the linkages between individual conferences. ECOSOC will consider this issue again at its substantive session this July. If we link this issue with the overall efforts to restructure and revitalize ECOSOC and the discussion (inside and outside of UNEP), which has been intensified, on strengthening international environmental governance, we might end up with a comprehensive structure in the field of development and environment that matches the challenges we are facing at the beginning of the new century.

For me, essential elements of such a structure could include:

- Changing the name of the UN Economic and Social Council to “Council for Economic, Social and Environmental Affairs” or, better yet, “Council for Sustainable Development”;
- Strengthening the Council in such a way that it can play its role as a global strategic forum in the social, economic and environmental area with a capacity to bring together governments, the UN system, representatives of civil society and the private sector to address issues of sustainable development from an integrated perspective;
- Seeking to give UNEP itself a more permanent form of organization and secure financing in the medium term which matches the grown tasks of the organization.

I know that many will consider these targets too ambitious. But would it not be appropriate for a summit of heads of state and government to strive for ambitious goals?

## **IV. Conclusion**

While the world population is growing at an unprecedented rate, evidence is also growing of the dangers that indifference to the cause of the environment may entail. Since there is no answer to most of these problems except one based on mutual responsibility, we have to seek solutions at the global level.

In order to meet the challenges ahead, we need vision, clear goals, strong commitment, good leadership and personal dedication. I hope for productive discussions during this timely conference and I thank you for attending it. Let me conclude with the Secretary-General's plea from the Millennium Summit: Let us not fail to ensure the freedom of future generations to sustain their lives on this planet. Future generations deserve that we try our best to make the World Summit on Sustainable Development a success!

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## Sustainable Energy

*Richard Worthington, Earthlife Africa*

Sustainable Energy—this is contested terrain, particularly at the United Nations and in the deliberations at CSD9. In South Africa the question of what qualifies and what does not has not been widely or rigorously debated, for example Eskom, our national electricity utility, has admitted on record that they have not even attempted to quantify externality costs of our coal-fired power stations, but there is fairly broad consensus amongst civil society organizations, particularly those working in the area of social and environmental justice, that nuclear power, fossil fuels and large-scale hydro do not qualify as sustainable. This is perhaps one reason why some parties prefer the phrase: energy for sustainable development over the term sustainable energy.

I must also mention so-called waste-to-energy. While it is desirable to collect and use the gas emitted by existing landfills, dedicated waste to energy facilities should not be promoted as sustainable energy as they perpetuate and legitimize waste—which should always be avoided—and do not compensate for the inherent energy in discarded material. It will always be more efficient to re-use or recycle than to waste. Furthermore even extremely expensive facilities produce unnecessary and unacceptable levels of air pollution.

The perversity of such ‘waste-to-energy’ proposals is well illustrated by their proponents—for example a company proposing to take waste from New York to Africa a few years ago, under the guise of recycling, maintained that they would be helping the host country because “Africa does not produce enough waste,” enough, that is, to make such a project financially viable. Campaigning against that particular proposal was no challenge but the proponents are still active, although now keeping a low profile.

At the UN we hear repeatedly that the imperative is to provide energy services to the approximately one-third of the global population that does not have access to adequate, or modern, energy services—this is the challenge within South Africa as well, and it overlaps with the challenge of addressing the trend of urbanization and the growing disparity or gap in income between the rich and the poor. People may not find what they hoped for when moving to the cities, or periphery of the cities, but it seldom prompts them to move back. People may get access to electricity but may not be able to afford to use it to meet their needs, particularly if they are living in badly designed homes without simple insulation, such as ceilings, or sensible orientation to take advantage of seasonal insulation—our abundant sunlight.

We have the disturbing situation currently where low-income residents of Soweto are charged over 50 percent more per kWhr for electricity than the wealthy residents of Sandton and up to four times more than big industry. Tens of thousands of people are having their electricity service cut off. Since this is in some areas done a block at a time, people who have paid their bills in full are

cut off along with those who have not, including small businesses. Reconnection fees are high, out of reach for many households.

For Earthlife Africa sustainable energy is not just about providing energy services but about how energy is used, about finding the best match between energy service needs and how those needs are met. This involves questioning the means of production in all sectors, ownership of productive resources and participation in decision-making. For example it is not just about producing windmills to power irrigation, but also about replacing wasteful wide-area sprays with drip irrigation that requires less pressure and thus power, and activating the system at times when evaporation rates are low—a strategy that is more consistent with small-scale farming than with large-scale industrialized agriculture.

In this light the phrase 'energy for sustainable development' may seem progressive, since it may be interpreted as embracing issues of integrated planning, and means and ownership of production. Unfortunately it can also be used to justify further development of fossil fuels and nuclear power, as a more politically correct way of saying electricity for growth—with growth measured by Gross Domestic Product, a measure of the turn-over of money that disregards quality of life and effectively denies or hides much of the world's most efficient productive activity simply because it does not involve cash transactions. An approach to improving access to energy that focuses exclusively on electricity provision is unlikely to bring the decentralization or affordability that most agree is central to sustainable energy.

The business sector, or at least the large part of it that is so well represented at CSD9, maintain that we should pursue all energy options, that we can do it all, develop everything and make everybody happy. In reality there is the issue of opportunity costs: as developing countries, including South Africa, are only too well aware, there are limited finances available for development. Strategic choices have to be made.

In South Africa particularly, nuclear power and so-called advanced fossil fuels are in effect, if not in theory or intent, in competition with renewable energy development. When public funds are spent to develop the nuclear Pebble Bed Modular Reactor, we are inhibiting our opportunities to develop environmentally friendly renewable energy technologies and local industry; investment in nuclear also means we are displacing less, effectively increasing, our greenhouse gas emissions.

Strategic choices have to be made—not only in which technologies receive investment but in how the money is accessed and channeled. It may be easier and more quickly show results if projects go to big utility companies, but the social benefits will be greater and more enduring (more sustainable if you will) if some level of community ownership of the means of providing energy services is achieved. When providing appropriate energy services it is important to ensure that it does not involve a net drain on the resources of communities. Renewable energy technologies, which are suited to small-scale, decentralized deployment, are generally the best choice to achieve this.

If the most appropriate, socially beneficial and environmentally benign technologies and interventions are to be implemented then we have to level the playing field through aggressive subsidy reform and full-cost accounting. It is worth noting that the relatively conservative International Energy Agency (which makes predictions for the energy sector for the rest of this century as though they were absolutely inevitable) noted in their side-event that we should emphasize subsidy reform over subsidy removal. Conclusions drawn from the workshops held by the IEA with UNEP suggested that subsidies aimed at social benefits such as redistribution and addressing gender issues were flawed. It is interesting and I believe significant that the negative case studies involved subsidies to fossil-derived fuels while positive case studies such as from Ghana involved subsidies to renewable energy—Photovoltaic systems brought improved health-care, education, increased productivity and empowerment of women.

Earthlife Africa has been at the forefront of efforts to get redirection of PBMR funds to renewable energy and energy efficiency projects and we are grateful to the HBF for some financial support to the campaign Nuclear Energy Costs the Earth. Outputs include two documents [display 'Nuclear Energy Costs the Earth' & 'Renewable Energy'] these are also on our website, the address of which is on my card which you can get at coffee-time. The Renewable Energy document mentions some of the positive developments in South Africa such as the wide-scale deployment of Solar Home Systems.

There are very significant opportunities for energy efficiency and so far we have barely scratched the surface. Energy efficiency is often seen as a strategy only for developed countries and this is one of the many issues of perception that need to be urgently addressed—while it may be more of a priority for the North, any country with a substantial transmission network will be able to improve efficiency, for example through load factor correction. Again in the agricultural sector, low input organic agriculture requires less energy, e.g., for manufacturing and transporting chemical fertilizers and spraying crops, and due to growing a diversity of produce it facilitates greater local use of such produce.

Initial case-studies at three prominent SA companies showed a potential return of R9 million per year on investments totally R5 million, with ten months as the longest pay-back period. Our Minister of Minerals and Energy welcomed the program, saying, “South Africa could save between fifteen percent and twenty percent in energy through such efficiency programs. This would increase the country’s gross product by at least three percent...”

We will need to address the effects of globalization to achieve equitable energy access—there must be an element of localization to achieve optimum and sustainable benefit. If developments in the energy sector are to be carried out in the name of the poor, in the names of the two billion whose interests industry proposes to serve, then energy service provision should not increase dependency, it should minimize extractive resource use and must include those very people in decision-making, based on comprehensive information.

The Sustainable Energy and Climate Change Partnership is clear about what it will advocate: energy efficiency in all sectors and particularly in industry, which requires full-cost accounting, including consideration of water use; the development of local renewable energy industries for wind, solar—both photovoltaic and solar thermal—and wave power, with deployment to feed the grid as well as serving remote rural areas. Where it can be done sustainably, biomass has an important role to play, particularly in conjunction with other technologies such as wind.

We do not share the view of the US delegation to CSD9 that the challenge of providing sustainable energy to the two billion people without access can or should be met with private sector funding. Of course the private sector has a significant role to play but we call on governments of developed countries, as well as the privileged within developing countries, to acknowledge the ecological debt—in terms of climate impacts, natural resource extraction and displacement of indigenous people—and to make redress, most urgently in the form of monetary debt write-offs; not in the name of charity or debt forgiveness but in the name of justice.

A rigorous understanding or interpretation of sustainable energy requires more than technological solutions. The Kyoto Protocol—while far from flawless—is an essential mechanism to enable more sustainable development. To get a protocol will also require leadership initiatives from developing countries, such as commitment to climate-friendly initiatives. One of our lobbying objectives is to get a commitment by our government, before the Johannesburg Earth Summit, to a set-aside program for 200 MW of renewable energy generating capacity from independent power producers.

Other international initiatives will also be necessary. The NGO energy caucus at CSD9 has proposed the establishment of an International Sustainable Energy Agency, under the auspices of the United Nations, somewhat along the lines of the International Atomic Energy Agency but with broader participation and accountability. Such an I.S.E.A may be another appropriate initiative; certainly there is a need to balance the influence of the corporate-controlled World Trade Organization.

All this will require civil society and government intervention on the basis of strategic choices, recognizing that you can't always keep everybody happy; choices about what will be accepted as sustainable. If the theme and the practice of sustainable energy are to achieve the social and environmental benefits which it promises, including poverty alleviation and equitable access, the term needs to be rigorously defined and understood.

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# Energy Policy and the Climate Regime

*Hermann E. Ott, German Foreign Ministry*

## I. Introduction

The development of human civilization is closely linked to the ability of mankind to utilize non-human forms of energy—from the discovery of fire, the use of wind and water power for milling and metal fabrication to the steam engine and the internal combustion engine that powers our vehicles today. The wealth of nations and the well-being of their citizens to a very large extent depended on the availability and the price of energy. Furthermore, as a consequence, the human race for the first time in history had enough “spare time” to ask the right questions, try to come up with solutions and to engage in economically “fruitless” activities—in other words, to develop the cultural richness that we all enjoy. This is one of the reasons why “energy” and its availability in the developing world figures so highly as a topic of the 9<sup>th</sup> session of the Commission on Sustainable Development.

There is another reason, though, that elevates the energy issue to the core of the sustainability agenda: the unintended side effects of energy generation (especially of fossil fuel burning) have the capacity to destroy the beneficial results of its use. In the words of a delegate of the German Ministry for Economic Cooperation and Development, the environmental disasters in many parts of the Southern world (much like HIV) threaten to nullify the social, economical and political achievements of developing countries. The recently released Third Assessment Report of the Intergovernmental Panel on Climate Change (organized jointly by UNEP and the WMO) has made it abundantly clear that the world is on a dangerous track and that the poorest countries will be hardest hit.

These are, in short, the two objectives that drive responsible energy policy today. It is our vision to combine the goal of poverty eradication with the objective to preserve the planet Earth and its suitability for decent human life. This, in fact, is ultimately our task—to keep the Earth a hospitable place for about ten billion people that are expected to inhabit this place by the middle of the 21<sup>st</sup> century.

## II. Climate Change and the Post-Rio Process

Others have talked before on the importance of energy for the economic development of poorer countries. Let me therefore turn to the connection between sustainable energy policy and the climate regime. I should not hesitate to tell you the most startling result right at the beginning—surprising at least for someone who has not been to most of the post-Rio meetings: there simply is no connection between these two processes!

In preparation for this event, I read through the background material for CSD 9 (to be correct, I used the “search” function...) and experienced a minor

shock. The term “Kyoto” does not appear to be a five but a “four letter word,” because what else should explain the fact that it is never used?

The Report of the Secretary General for the Intergovernmental Group of Experts on “Energy and sustainable development: options and strategies for action on key issues” of 7 December 2000 does neither contain the term “Kyoto Protocol” nor “Framework Convention on Climate Change.” The report of the SG does in one paragraph refer to one of the instruments contained in the Kyoto Protocol, but under the heading “clean development mechanisms” (sic!) and without any explanation where they (?) might have their roots. The same applies to the discussion papers for the multi-stakeholder dialogue on sustainable energy and transport. Actually, the Kyoto Protocol appears once in one of the papers. Not in the NGO paper, but in the discussion paper contributed by the scientific and technological communities (para 5).

Now, there clearly may be some valid political reasons to keep the post-Rio process distinct from the Kyoto process, but there are certainly limits! These two negotiation processes should be kept separate, no doubt, but they must recognize each other. Otherwise the results of both processes will not be sustainable.

### **III. Climate Change and Sustainable Energy**

What are the reasons, therefore, to keep a close eye on the climate regime? Well, first of all, as indicated above, climate change has the potential to eradicate the advances of the fight against poverty and the advancement of developing countries. Everybody involved in the post-Rio process should therefore have a certain interest in the success of the climate negotiations.

Second, the climate regime and, in particular, the Kyoto Protocol, is developing a number of potentially very powerful instruments that will significantly affect energy policy both in developed and developing countries. One of them, the Clean Development Mechanism (CDM), will have a direct bearing on energy related investments in developing countries. The principles and rules governing the CDM are thus of prime importance for the future energy supply and energy mix of these countries. Which projects qualify (only renewables or also “clean” coal, large hydro and nuclear projects)? Does the CDM allow forest projects to generate “certified emission reductions,” which would as a consequence decrease the financial flow into energy projects?

Emissions Trading and the so-called Joint Implementation are instruments designed for industrialized countries only, but they will also have a great impact on investments in certain activities. This is actually one of the most important aspects of these instruments: they are not primarily about public money, but about private investments that might dwarf official development assistance.

Third, the industrialized Parties to the Kyoto Protocol are not only required to bring their greenhouse gas emissions down, but they are furthermore called

upon to implement certain policies and measures. To this end, the Parties to the climate regime are developing a process to identify “best practices” in a wide range of energy related policies: on transport, subsidies, full cost pricing taxation etc. These best practices have the potential to set worldwide standards that will not leave developing countries unaffected.

Fourth, the climate regime is already driving energy policy in many industrialized countries, most notably in the Scandinavians and Germany. There is a saying that among the blind, the one-eyed is king. Germany in this sense may be one-eyed, since it has initiated a climate protection program that is rather ambitious. Already now, wind power generates two percent of German electricity, which is fifty percent of the EU and thirty five percent of the world supply—and growth rates are staggering. The progressive tax on fuel is beginning to change people’s mind on energy saving and car use and the feed-in law provides for a boom in renewables. The high price for the feed-in of solar generated electricity coupled with a 100,000 roof program will help to make photovoltaic systems competitive in the market. This is an experiment on a rather large scale and these developments will certainly indirectly affect developing countries.

And fifth, decisions taken in the CSD process have a direct bearing on the climate regime—take, for example, the question of nuclear power and whether it can be considered a “sustainable” form of energy.

#### **IV. Conclusions**

These points taken together should have made it abundantly clear that the two processes simply cannot be considered in isolation. Energy policy, and “sustainable energy” in particular, cannot be understood without taking into account one of the main drivers, i.e., climate policy. Even less can they be influenced without profound knowledge of the climate process. If the CSD process is to be more than just an academic exercise, some more and better linkages are needed. The linkage provided by personnel serving in both regimes is certainly not sufficient.

The Kyoto process is in heavy turbulence at the moment and needs some support! The protocol is not dead after the US’s unilateral decision to nullify 10 years of international negotiations. The EU, together with Russia, Japan and the Eastern European Countries still have the possibility to bring the Kyoto Protocol into force—independent from the United States. This requires courage and the exercise of high diplomatic skills. Some key developing countries must also show their support, if the protocol is to be ratified in time for Rio + 10.

The CSD must therefore send the right signals now, both to the US Administration that it must not stand in the way of the vast majority of states that want to see progress and to the EU and Japan that the world community stands behind them!



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## Trade and Environment: The Search for Global Consensus

*Paul Joffe, National Wildlife Federation*

It is no surprise that the clash between trade and environmental objectives is a highlight of this conference regarding the challenges of globalization and preparation for the 2002 Johannesburg World Summit on Sustainable Development. This is so because the trade and environment debate dramatizes the effort to reconcile contending interests and priorities in a globalizing world.

The task of sorting out the relationship between economic development and environmental protection was a challenge for many individual countries during the twentieth century. A similar task now awaits us on a global scale.

In recommending new steps that are needed, I will make three points: We need to reform the rules; we need to reform the institutions; and we need to create the conditions for consensus. I will emphasize here that we will make little progress on the first two goals without progress on the third. This need has been recognized in both Southern and Northern countries, but it bears further emphasis. For example, the South African NGO Caucus has suggested that the World Summit must respond to priority concerns of the South such as the issues of global equity, poverty, and consumption.<sup>1</sup> The National Wildlife Federation has called for a drive to “find the common ground that unites the interests of the industrialized world with those of the developing world” because “international cooperation is necessary to solve international problems.”<sup>2</sup>

I have been asked, for this conference, to discuss the relationship of trade and multilateral environmental agreements (MEA's) as well as institutional reforms that might address trade and environment conflicts. This is a good place to start because it helps us focus on how the international community legislates or makes rules regarding the environment and how environmental goals can be taken into account in trade decisions and policy. It also leads us to an additional, important question. We know that within individual countries the legislative and judicial process provides a way to develop consensus on the reconciling of environmental and development goals. The question is whether the process for creating and implementing international agreements is also capable of doing this.

While not lacking interest in environmental protection, countries with urgent economic needs may place priority on development at home and access to markets abroad and may look warily on MEA's, or proposals for institutional reform, as excluding their concerns. Strong arguments support the idea that, in the long run, development that is not sustainable development will be self-defeating. The question is whether the international community is capable of creating and supporting rules and institutions that can protect the environment and foster development at the same time. If this is to happen, international agreements and institutions must be viewed as the instruments of an inclusive global

consensus. Examination of experience in addressing the relationship between trade and the environment helps suggest how we might begin to achieve that result.

## **I. Reform the Rules**

For those who follow the trade and environment debate, the subject of the rules is probably the most familiar ground. In general, discussion has focused on two kinds of problems: lack of uniformity of environmental law among nations and fragmentation of international decision making on trade and on the environment.

Lack of uniform environmental laws among nations has led some to fear that trade liberalization will lead to a "race to the bottom," in which countries with weak environmental laws will become pollution havens. Others have said that if environmental rules were too stringent, they might dampen growth in developing countries. In an attempt to strike a balance, the authors of the North American Free Trade Agreement (NAFTA) obligated each country to enforce its own environmental laws and not to weaken them in an attempt to attract investment. Similar provisions have been included in an agreement between the United States and Jordan. However, the current Administration in the United States seems uncertain or perhaps opposed to Congress approving the Jordan agreement with these provisions and to including such provisions in a free trade agreement for the entire Western hemisphere which is under negotiation.

A second kind of rule reform which has been sought would require greater deference by trade tribunals such as the World Trade Organization (WTO) and NAFTA to environmental standards established by individual nations or in MEA's. This aspect of the debate was made famous when international trade arbitrators ruled that technical rules designed to open markets to trade could override the efforts of the United States to protect endangered marine animals such as dolphins. While many environmentalists feared that trade rules would demolish environmental safeguards, many in developing countries feared that regulations supposedly intended for environmental protection might actually be disguised protectionist barriers designed to keep Southern competition out of Northern markets. Of course, most exclusion from Northern markets could be alleviated by removing old fashioned trade barriers that are unrelated to environmental regulation, a point to which we will return.

It is sometimes argued that environmental issues should be kept out of trade disputes and dealt with in MEA's. Of course, if no MEA exists on a given subject, the question of whether the environmental law of an individual nation is at odds with trade rules may be unavoidable. Where it is possible, however, to reach global consensus on environmental standards, this could be a way of reducing the controversy surrounding trade rules. That will be the case, however, only if trade institutions afford deference to MEA's.

MEA's sometimes contain trade restrictions. For example, trade restrictions with respect to non-parties are designed to prevent free riders and create incentives to join the agreement. As with the concern regarding the environmental laws of individual nations, many environmentalists fear that the trade measures used to enforce such global accords as those dealing with chemicals that deplete the ozone layer, traffic in endangered species, and transportation of hazardous wastes could be struck down for violating trade rules administered by the WTO. Here are two possible examples: A country acts in compliance with an environmental agreement by distinguishing among imported products based on whether they were produced in an environmentally friendly manner. Second, a country blocks trade in a product under an environmental agreement providing that products traded by countries that are not members of the agreement can be treated differently from those of members. In both cases, conduct under the environmental agreement might be challenged under WTO rules for discriminating between like products of two WTO member countries.

In some of its early decisions, WTO panels seemed to take the view that when the WTO considers trade rule challenges to environmental laws it will not take into account environmental agreements and will read environmental exceptions under its own rules very narrowly. This produced serious concern about the viability of environmental agreements and serious doubts about the WTO.<sup>3</sup> Resolution of this problem seems important for several reasons. Certainty and predictability for those who must comply with both trade law and MEA's is one. Another is to facilitate the use of MEA's to protect the global environment. A related point is that the success of MEA's should lessen the need or desire for individual nations to take unilateral action and therefore reduce trade frictions stemming from disputes about such action.

A variety of solutions to the potential lack of deference to MEA's have been suggested. Several of the suggestions target the WTO's understanding of its own rules. For example, in discussions within the WTO's Committee on Trade and Environment (CTE), Switzerland has suggested an interpretive decision should establish a principle of deference, with objective criteria for determining MEAs to which the WTO should defer. This could include a requirement for close consultation with the relevant MEA secretariat or other expert environmental body. Canada and Iceland, supporting the Swiss call for a policy statement, stressed that clarification should not be left to case-by-case decision in the WTO. The European Union has suggested that conflict between parties to an MEA should be resolved within the MEA. When there is a non-party WTO challenge to an MEA trade measure, the EU proposes consideration of reversing the burden of proof. Similar to the "criteria" approach, but even more explicit, is that of NAFTA, which lists specific MEA's that are recognized under the trade agreement.

The parties to MEA's can also attempt to specify an agreement's relationship to the WTO. The authors of one comment find conciliatory language in the Cartagena Protocol on Biosafety coupled with what they believe is a more flex-

ible approach at the WTO as heralding the possibility of reconciliation of trade and environmental agreements.<sup>4</sup> Others might view this result as leaving too much to future case-by-case decision or simply as creating confusion.

In one sense, these various suggestions reflect a fairly routine experience when a court or tribunal is faced with a decision in which more than one law or treaty applies. Under U.S. domestic law, the court searches for the intent of the legislature with respect to which rule applies. Various canons of interpretation come into play, such as which rule is general and which specific or which was enacted most recently. We also have rules regarding deference by courts to bodies with specialized expertise.

Roughly comparable rules exist at the international level with respect to interpretation of treaties, but they do not work as smoothly. At the global level we do not have one institution like a court that has a clear mandate and the recognized legitimacy to weigh competing trade and environmental objectives. Moreover, when the public dislikes the way a court does the balancing, a domestic legislature can step in and tell the court how to do it. We have nothing comparable on the international level. Instead we have multilateral negotiations which meet to establish trade agreements and separate, *ad hoc* negotiations to establish environmental agreements.

No one suggests that domestic judicial and legislative institutions can be replicated on a global scale. But the comparison with our domestic institutions helps clarify the problem with which we are struggling. It suggests that simply fine tuning the WTO rules has inherent limitations.

## **II. Reform the Institutions**

A variety of reforms to overcome the institutional gaps at the global level have been suggested which could address the tensions in the relationship between trade expansion and environmental protection. As already suggested, this could be done by creating more linkages and dialogue between trade institutions and environmental institutions, so that all relevant factors are considered. And it could be done by creating more consensus on standards, with respect to the environment, to which trade institutions would defer. As we will see, preliminary steps have been taken along these lines, but they have encountered practical difficulties and sometimes objections on grounds of fairness.

At the outset, it should be said that moving forward with institutional reforms does not mean that the rules should be frozen. Rule reform and institutional reform can move forward together. For example, it has been suggested that the WTO Appellate Body decision in the recent Asbestos case reveals progress on the crucial issue of whether the WTO will defer to legitimate environmental safeguards and can distinguish between legitimate environmental regulations and those that are merely disguised protectionist barriers. The authors suggest

that in the absence of effective political leadership to mediate between contending interests, the WTO Appellate Body is performing an important balancing role.<sup>5</sup>

If there is progress in some of the decisions of the WTO, this could be reflected in clarifying rules or policy statements to ensure consistency. Beyond that, however, further improvement through institutional reform is possible. Incremental steps have been suggested, such as improved transparency and accountability at the WTO and a stronger directive for it to cooperate with international environmental institutions and seek legal guidance by reference to international environmental agreements and other environmental standards.

Larger institutional steps toward integration of trade and environmental objectives have been taken. Although still often weak and fragmentary, so far these steps appear to be stronger at the regional than at the global level. These regional experiments might be viewed as dealing both with the issue of a more balanced inclusion of environmental considerations in trade and other economic decisions and also with development of greater consensus on environmental standards.

Perhaps the best example of this is the European Union, which is grappling with the problem of whether free trade is compatible with different environmental standards among member nations. In the EU enlargement process, new member countries from the east will be required to comply with existing community environmental law, but a sometimes difficult discussion is under way as to how quickly this can be accomplished and with what sources of funding, an issue to which we will return.<sup>6</sup> NAFTA is a less ambitious version of this. However, steps have been taken to mitigate the environmental degradation that might result from a surge in trade related development, with aspirations for raised and, perhaps when and where possible, common standards.

At a global level, various proposals for reform of environmental governance have been offered. These might also be thought of as addressing the need for decision-making that includes both developmental and environmental values and the need to strengthen the consensus on standards for sustainable development. Thus proponents of more coordinated global institutions have talked about the idea, raised earlier, that a body with environmental expertise is needed as a counter weight or adviser to the WTO. Another concern they have raised relates to the current lack of coordination among multiple environmental treaties and secretariats. Beyond the need for administrative convenience, it is argued that no single state can solve transboundary environmental problems alone, and that without some form of coordination, polluters get away with shoving the costs of pollution off on those on whom the pollution falls. Professor Daniel Esty has argued that the U.S. was a prime mover in frustrating institutional reform at Rio because it benefitted from such cost shifting but that now "[e]cological interdependence is inescapable. . . . To gain control over our environmental destiny, we must cooperate and coordinate with others."<sup>7</sup>

These concerns have led to proposals ranging from incremental improvement in coordination among the secretariats of MEA's to creation of a World Environmental Organization (WEO) or a World Environment and Development Organization (WEDO).<sup>8</sup> It has been suggested that by providing a forum for consensus building and dispute settlement on the environment, as well as expert advice to the WTO, a WEO could reduce pressure on the WTO to become entangled in environmental issues and could reduce trade and environment frictions generally.<sup>9</sup>

These proposals, however, have received decidedly mixed reviews. If the WTO were thought to be unduly deferential to commercial interests what would ensure a different result in a WEO created by the same nations? How would jurisdictional conflicts between the WTO and a WEO be resolved? Pros and cons regarding institutional reform have been raised by developing countries. Some are concerned that stronger global environmental institutions would simply strengthen the ability of these institutions to trump Southern interests with a Northern environmental agenda.<sup>10</sup> At the same time, the Environmental Minister of South Africa recently said, "The present proliferation of structures, agreements, programs and conferences simply results in an inadequate participation on the part of developing countries. The dispersed and fragmented nature of the system makes it fundamentally undemocratic. . . There is a need, without being over-ambitious, to strive towards a kind of a one-stop institutional arrangement—to some extent a greater degree of centralization."<sup>11</sup>

From this brief summary of proposals for institutional reform, it is evident that the problem of frictions between trade and environmental rules leads to broader issues. We have focused on two points: whether a decision structure exists that decides trade and other economic issues while taking environmental considerations appropriately into account and whether rules and institutions facilitate the creation of a consensus on environmental standards.<sup>12</sup> As we discuss the possible institutional reforms to achieve these objectives, we see that there are challenges of both effectiveness and legitimacy. It is sometimes assumed that proposals for increased efficiency will carry the day because efficiency is by itself a good thing. But this is not so if the result is seen as unfair. How can we achieve more effective governance for sustainability that has legitimacy throughout the community of nations?

### **III. Create the Conditions for Consensus**

It is sometimes simplistically and mistakenly suggested that industrialized countries want to maintain high environmental standards and developing countries do not. To reference only one current example, we know that industrialized nations have contributed most to emissions of fossil fuels that threaten the earth's climate and yet some industrialized nations, especially the United States, have been reluctant to take action. At the same time, U.N. Secretary General Annan

has pointed out that it is those living in hot climates, near sea level, who cannot afford to relocate, who are most threatened by global warming. It is also estimated that eighty percent of diseases in developing countries are caused by unsafe water and poor sanitation, resulting in over five million deaths annually.<sup>13</sup> The new President of Mexico has declared a “crusade” to address the problems of water and deforestation.

If there is no simple North-South split with respect to the desire for environmental protection, what are the obstacles to consensus? Studies of transitional and developing countries show that weak implementation of global environmental treaties are often not due to a lack of will but to a lack of administrative structures and resources.<sup>14</sup> Yet the commitments of industrialized countries made a decade ago at Rio to provide funding for sustainable development have fallen sadly short, as have the ambitious environmental plans of that conference.<sup>15</sup> It is often argued that official development assistance is either not the answer or is wasted in the absence of improved local governance and law reform. But while private investment has become increasingly important, it is concentrated in only a few developing countries. Official development assistance thus remains essential, argues Joseph Stiglitz, former Chief Economist at the World Bank, and the cuts in such funding have culminated “just as evidence of the effectiveness of aid is mounting.” Coupled with local reforms, foreign assistance can promote economic growth and make the reforms lasting.<sup>16</sup>

Inaction on the global environment is due, however, to more than just a lack of money. If we look at situations where preliminary efforts are being made to transfer the resources necessary to support sustainable development in transition countries and the South, perhaps we can find clues to what is lacking elsewhere.

A careful study of international cooperation on environmental protection suggested a complex of factors that makes for effective programs involving resource transfers. The case studies involved such instances as the Montreal Protocol dealing with phase out of chemicals harmful to the ozone layer, debt for nature swaps, the Global Environmental Facility, and aid to Eastern Europe. The authors found that for programs to be effective, there must be concern to protect the environment on the part of both funders and recipients. There must be administrative and technical capacity, both in the donors and recipients, to put the funds to good use. There must be an ability to solve contracting problems, in the sense that all parties must have confidence that expectations regarding action to safeguard the environment and the availability of funds to do so will be fulfilled. The authors identified a key source of ineffectiveness as coordination failures, a “time-honored” problem of development assistance. The lessons of the study might well be summed up in the authors’ statement that to work, institutions for environmental aid must “create incentives for cooperation; otherwise, they will merely become sites for repetitive and costly political struggle.”<sup>17</sup>

This suggests why, however well intentioned, large but vague promises of progress on the environment and commitments to financial assistance have fallen so far short. There has to be a closer match between the interests of all the parties and confidence all around that it is plausible that if each acts, so will others. Two important kinds of situations where these circumstances might exist come to mind.

First is the case of an MEA such as the Montreal Protocol. The agreed upon action is focused on a particular problem and funding and technology transfer is focused on that problem. Donors know that the funds will be used to address the problem and recipients have incentives for action, both in financial support and in the opportunity for technological advance. Also, in the case of chemicals harmful to the ozone, concern could be readily mobilized in donor countries because the chemicals were used in consumer products.<sup>18</sup> Finally, the Montreal Protocol contains the trade restriction with non-parties that present the potential collision with trade rules. The trade restriction was intended to prevent free riding on the efforts of the parties, to encourage participation in the MEA, and to discourage relocation of production to non-member nations. In the evolution of the agreement, both the trade restriction and the funding were important. China and India made clear they would not join without the funding, which was then included and participation by others increased rapidly. As participation becomes universal, the importance of the trade restrictions dwindles.<sup>19</sup>

A second situation where the necessary incentives for cooperation might exist is that of regional integration, such as NAFTA or the enlargement of the European Union.<sup>20</sup> In joining the EU, the candidate countries of Eastern Europe must comply with EU environmental law. It has been pointed out that this presents "a massive problem" because of the high levels of pollution allowed under the former communist governments. It has been estimated that the cost of the transition could be three to five percent of GDP over twenty years. Sometimes difficult negotiations are under way regarding the sources of funding and the implications for economic development funds for poorer, current EU member countries. On the one hand, there is concern that the candidate countries will improve their environmental performance only slowly, weakening the overall drive for the environment in Europe. On the other hand, even a slow improvement in the east is an improvement, and potentially a net improvement for the entire region.<sup>21</sup>

What can we learn from these examples with respect to the possibilities for improving global governance to deal with the trade and development and environment problems? The lessons are that integration of environmental and economic objectives is possible, but success depends on finding ways to develop consensus on the standards of sustainable development.

First, we know from experience that MEA's are sometimes effective, but their proliferation creates problems of coordination and linkage with trade institutions. This can be addressed through incremental steps already discussed. However, the MEA experience also shows that development of multilateral con-

sensus through a close fit between incentives and expectations is important if there is to be strong support for taking environmental factors into account in trade and other development decisions. The fragmentation of our global institutions creates the need for integration, but the will to do so will only be there if there is progress toward consensus.

Second, we have indications from regional examples that progress on integrating trade and development and environmental protection may be possible. There has been more willingness within the EU than on the global level to give community institutions the role of considering both trade and environmental values when they seem to conflict. Also, EU institutions, and to a lesser extent perhaps those under NAFTA, are more capable of creating mutual incentives to make progress simultaneously on development and the environment. This includes the presence of financing institutions that facilitate funding as part and parcel of consensus building.

However, the incentives for the candidate countries of eastern Europe to raise their environmental standards go far beyond financial assistance. They include all the benefits of membership in the EU, which range from access to the free trade area of Europe to the security benefits. Nor are those broader benefits one sided, as western Europe has many reasons to wish to expand to include the east. Accordingly, while the enlargement negotiations are intense, the relationships are perhaps more those of mutuality than conditionality. Similarly, wide ranging negotiations over an array of issues going far beyond trade are in prospect among the NAFTA countries.

By contrast, consider the situation at a global level. There is a growing belief that industrialized countries should afford greater market access to developing countries.<sup>22</sup> But the bargaining on that issue is essentially confined to the WTO and focused narrowly on trade issues in discussions among trade ministers. At other times and places finance ministers may get together and discuss development aid. At still other times and places environmental ministers may get together and discuss the environment, but their collective voice is rarely heard at the WTO. The point is not simply that there are more issues on the table at the regional level. Additionally, there are ongoing relations of mutuality so that there are greater expectations that when a deal is struck it will mean something.

For these reasons, it is possible we will see more progress, however imperfect, on integrating trade and the environment, and more progress generally in achieving sustainable development, at the regional than at the global level.<sup>23</sup> This does not mean, of course, that the regional model can be translated automatically to the global level. It may be that the kind of multi-issue bargaining that is possible at the regional level is only possible because of the similarities among the parties or at least proximity, or both.

Nevertheless, it is worth considering whether one of the things that may be lacking at the global level is adequate bargaining flexibility. Discussions of a global organization that would have responsibility for sustainable development,

or at least for greater coordination, often focus on arguments of either administrative efficiency or a need to provide a counter to the WTO. But it may be that the need for consensus building mechanisms is just as important.

One commentator goes so far as to argue that a single entity should consider trade and environmental issues. The author urges that a reformed and more eclectic WTO would be a good candidate to do this because of its effective dispute settlement mechanism and its ability to develop “package deals.” He suggests that negotiators making policy trade offs in line with the views of national parliaments would yield greater legitimacy than judge-made law developed through dispute settlement bodies.<sup>24</sup> In keeping with the possibilities suggested above, this argument stresses the potential benefits of a broader legislative capacity where “package deals” are possible.<sup>25</sup> While the idea of using even a reformed WTO for this purpose would likely be met with too many objections from all sides to be viable, at the regional level we have seen some progress on linking environmental and development goals. Of course, bringing together at the global level the range of issues on the table at the regional level would probably be too unwieldy. However, an ongoing ability to discuss proposals and negotiate agreements that contain development and environmental elements as well as financing might be useful.

It is true, this can always be done on an *ad hoc* basis. The point of institutionalizing the process would be to gain the added incentives for cooperation that come from the give and take of continuing relationships and the increased predictability regarding funding present in those proposals that incorporate existing or enhanced development financing. Of course, the decision-making structure and agenda must fairly represent countries of all degrees of development. As noted earlier, experience shows that it is possible to include in the sustainable development agenda the priority concerns well stated by the South African NGO Caucus—“equity, poverty, and consumption”—but we will have to do better than we have.<sup>26</sup>

#### **IV. We Will Have to Do Better**

From earth summit to earth summit, the volume and complexity of environmental law has grown, but the deterioration of the global environment has accelerated<sup>27</sup> and the gap between rich and poor has grown. Globalization powered by expanding international trade is spreading great economic benefits around the world, but unless the resulting economic development is sustainable development, the economic achievement will be a pyrrhic victory we will all regret.

The dilemma we face started to receive attention because of arcane trade rule interpretations, but those decisions focused attention on two important issues discussed here on which we need to make progress. First, decisions to further the goals of trade expansion and economic growth need to take into

account the goals of sustainable development. Second, we need better means to achieve consensus on principles of sustainable development. We need this because the necessary support for integrating trade and development and environmental objectives must rest on a sense that all concerned stand to benefit. Despite some significant shortcomings, our domestic institutions have the capacity, if not always the will, to address these needs. Our domestic agencies and courts can integrate economic and environmental goals. If substantial elements of the public do not like the balance struck, a consensus on an alternative can be developed in the legislature, and legislative intervention can be undertaken to provide guidance to agencies and courts. At the global level, however, our institutions are fragmentary and uncoordinated.

This discussion suggests that consensus on principles of sustainable development may depend on interaction among economic, social, and institutional changes. As we have seen, the factors that facilitate consensus are complex, but progress can be made through multilateral environmental agreements and regional cooperation. At the global level, we should consider the possibility that institutions with greater continuity and scope will provide more incentives for cooperation than continuing the *ad hoc* approach to MEA's. As the environmental minister of South Africa suggested, without being over-ambitious, we can do better.

It is said that one of the principal architects of the European Community, Jean Monnet, sought to resolve conflict among nations by showing people their common interests. To do this, he believed new institutions were needed that would remove the obstacles to realizing the existence of common interests. He was optimistic that this could be done but somewhat pessimistic because he believed that people do not recognize the necessity of changing institutions without crisis.<sup>28</sup> On the subject of sustainable development, we can only hope that the current dismal trends are sufficient crisis to produce action, or at least that our common recognition of the problems and search for solutions will increase the likelihood that we will ultimately vindicate Monnet's optimism.

## Endnotes:

<sup>1</sup> "Towards the World Summit on Sustainable Development, Johannesburg, South Africa, 2002," A discussion paper by the South African NGO Caucus on the World Summit for Sustainable Development, Heinrich Boll Foundation, World Summit 2002 Johannesburg Papers No. 1, page 14.

<sup>2</sup> "A Conservation Agenda from the National Wildlife Federation" (Sept. 2000) page 44.

<sup>3</sup> L. Guruswamy, "The Promise of the United Nations Convention on the Law of the Sea (UNCLOS): Justice in Trade and Environment Disputes," 25 Ecology L.Q. 189 (1998).

<sup>4</sup> Eggers and Mackenzie, "The Cartagena Protocol on Biosafety," 3 Jour. of International Economic Law 525 (2000).

<sup>5</sup> R. Howse and E. Tuerk, "The WTO Impact on Internal Regulation – A Case Study of the Canada-EC Asbestos Dispute" (text at note 57 and following), forthcoming in G. De Burca and J. Scott, eds., THE EU AND THE WTO: LEGAL AND CONSTITUTIONAL ASPECTS (2001).

- <sup>6</sup> “The European Union as an Environmental Governance System,” by R. Axelrod and N. Vig in Vig and Axelrod, eds., *THE GLOBAL ENVIRONMENT: INSTITUTIONS, LAW AND POLICY* (1999) pages 90-92.
- <sup>7</sup> Daniel Esty, “Stepping Up to the Global Environmental Challenge,” *VIII Fordham Environmental L. Jour.* (1996) pages 103, 112.
- <sup>8</sup> Extensive material on these proposals may be found at the web sites of the Global Environmental Governance Project of the Yale Center for Environmental Law and Policy [www.yale.edu/gegdialogue](http://www.yale.edu/gegdialogue) and of the United Nations Environmental Program [www.unep.org](http://www.unep.org) (International Environmental Governance, Working Documents).
- <sup>9</sup> C. Ford Runge, “A Global Environment Organization (GEO) and the World Trading System: Prospects and Problems,” January 15, 2001.
- <sup>10</sup> Agarwal, Narain, and Sharma, *GREEN POLITICS: GLOBAL ENVIRONMENTAL NEGOTIATIONS* (Center for Science and Environment 1999) Chapter 9.
- <sup>11</sup> Statement of Mohammed Valli Moosa, Minister of Environmental Affairs and Tourism, Republic of South Africa, “Towards Earth Summit 2002” (April 2001).
- <sup>12</sup> While the National Wildlife Federation believes that trade rules can be crafted to be compatible with legitimate environmental safeguards, we also believe that consensus building needs to go beyond fine tuning the rules to many of the institutional issues addressed in this paper. For a full discussion, see Testimony of Mark Van Putten, President & Chief Executive Officer, National Wildlife Federation before the U.S. Senate Finance Committee on the United States Trade Agenda After the Seattle WTO Ministerial, February 10, 2000.
- <sup>13</sup> Kofi Annan, “We the Peoples,” *The Role of the United Nations in the 21<sup>st</sup> Century* (2000) pages 16, 60; Kofi Annan, Address to Developing Countries ‘South Summit,’ April 12, 2000; Kofi Annan, Commencement Address at Stanford University, June 11, 2000. See also Peider Konz, ed., *TRADE, ENVIRONMENT AND SUSTAINABLE DEVELOPMENT: VIEWS FROM SUB-SAHARAN AFRICA AND LATIN AMERICA* (2000).
- <sup>14</sup> Weiss and Jacobson, eds., *ENGAGING COUNTRIES: STRENGTHENING COMPLIANCE WITH INTERNATIONAL ENVIRONMENTAL ACCORDS* (1998).
- <sup>15</sup> Gary Bryner, “Agenda 21: Myth or Reality?” Chapter 8 in Vig and Axelrod.
- <sup>16</sup> Joseph Stiglitz, “An Agenda for Development in the Twenty-first Century,” Keynote Address to the Ninth Annual Bank Conference on Development Assistance, Washington, D.C., April 30, 1997.
- <sup>17</sup> Keohane and Levy, eds., *INSTITUTIONS FOR ENVIRONMENTAL AID: PITFALLS AND PROMISES* (1996) pages 8-16, 283, 334-49, 351.
- <sup>18</sup> B. Bramble and G. Porter, “Non-Governmental Organizations and the Making of US International Environmental Policy,” Chapter 12 in Hurrell and Kingsbury, eds., *THE INTERNATIONAL POLITICS OF THE ENVIRONMENT* (1992).
- <sup>19</sup> *TRADE MEASURES IN MULTILATERAL ENVIRONMENTAL AGREEMENTS* (OECD 1999) pages 80-81.
- <sup>20</sup> As one authority on the construction of the European Union has noted, the history of the EU, from the Treaties of Rome on, is replete with “package deals” in which cooperation is based on mutual benefits. J. Pinder, *THE EUROPEAN UNION* (2001) page 13.
- <sup>21</sup> Axelrod and Vig, “The European Union as an Environmental Governance System,” above, pages 91-93.
- <sup>22</sup> James Wolfensohn, World Bank President, remarks of February 26, 2001 in London.
- <sup>23</sup> See J. Gilbreath, “Environment and Trade: Predicting a Course for the Western Hemisphere Using the North American Experience” (May 2001) (regarding lessons from NAFTA for negotiations on a Free Trade Area of the Americas).

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<sup>24</sup> M. Bronckers, "More Power to the WTO?," 4 *Jour. of International Economic Law* 41, 53, 54, 64 (2001).

<sup>25</sup> A different view is taken in an important analysis by Jacquet, Pisani-Ferry, and Strauss-Kahn, "Trade Rules and Global Governance: A Long Term Agenda," December 2000, pages 12-15. These authors urge that specialization is important to legitimacy of international institutions and that we should resist the temptation to blur the boundaries among institutions dealing with trade and other subjects. To strengthen the judicial capacity of the international system, they do suggest a new, neutral appellate body to handle disagreements between trade and environmental dispute settlement panels. However, our point above is that there are potential benefits of strengthening consensus building or legislative capabilities by facilitating trade offs and package deals across subject areas. The potential benefits from a WEO that can facilitate bargaining and package deals across environmental, commercial, and development objectives is discussed, along with some difficulties of such an undertaking, in J. Whalley and B. Zissimos, "What Could a World Environmental Organization Do?" and P. Newell, "New Environmental Architectures and the Search for Effectiveness," 1 *Global Environmental Politics* 29, 35 (2001).

<sup>26</sup> In the paper cited earlier, C. Ford Runge suggests that a viable WEO must be linked to commitments to expanded market access for developing countries, and must offer those countries differential treatment, technical assistance, and adequate representation.

<sup>27</sup> H. French, *VANISHING BORDERS* (2000) pages 15-33.

<sup>28</sup> M. Burgess, *FEDERALISM AND EUROPEAN UNION: THE BUILDING OF EUROPE, 1950-2000* (2000) pages 33-34.



## **Trade and Sustainable Development**

*Jessica Wilson, Environmental Monitoring Group*

I spent two years in America—in Boston—and perhaps my most lasting impression was how far away and foreign Africa seemed. This was extraordinary for me, that a whole continent and what's more the continent that I knew best, my birthplace and home, had become a black hole, a barely talked about concept, a uniform area plagued with war and corruption, backward and primitive. It had no history and no future; no countries; no celebration; no diversity; no language; no literature; no music and no imagination.

Why do I mention this when I have been asked to speak about trade and sustainable development? Largely because of the promises to Africa that trade and sustainable development are supposed to bring. One of the things that annoy me most in the advocacy of “free” trade is the mantra coming from organizations such as the World Trade Organization that it is good for you. In particular, they state, it is good for poor people, for sustainable development and for developing countries. Africa, so they say, has the most to gain from trade liberalization. Yet, in the media, Africa does not exist. I use my example of personal alienation from Africa when living in the U.S. to illustrate a number of things that I think are extremely important to remember when considering issues around trade and sustainable development:

- how powerful the media is in manipulating our consciousness;
- how the term ‘sustainable development’ has become jargon and a useful catch-all for justifying various ideologies and economic activities;
- how difficult it is to design a ‘one-model-fits-all’ for improving people’s lives and their environment, particularly for a continent as diverse and invisible as Africa.

Bearing that in mind, what has happened since Seattle?

The trade and sustainability agenda has shifted. Whereas governments went to Seattle assuming they would launch a new round of negotiations; now there is far greater questioning of the links between trade and sustainability. “No new round turn around” was a common cry from the street, particularly from African activists. And early this year, social movements did more than protest, they met in Porto Alegre at an alternative economic summit to discuss and propose alternatives to corporate globalization. We are seeing a subtle shift in legitimacy between the WTO and social movements. Whereas before, NGOs, people’s organizations and trade unions were looking for the best ways to defend themselves against the WTO, now the WTO is looking for ways to appease the social movements. Overtures are made—a social clause here, a

“Global Compact” there, multi-stakeholder dialogues everywhere. Yet there is no fundamental shift in the way in which these international financial and trade institutions work.

Perhaps the most striking feature emerging around trade and sustainability is the increasing awareness that there is a parting of ways between sustainable development and corporate globalization; there is a fundamental conflict in the logic that each holds true. The two cannot exist side by side. People’s desire for diversity, the acceptance of the wholeness of life and human development can only be met through a total rejection of corporate globalization.

What do I mean by this? I will give you another example. The week before I left Cape Town, the front page of our local paper consisted of a huge photo of fields of Namaqualand daisies—flowers that bloom in the desert and sandy soils of the Western and Northern Cape. The caption to this photo said: “Where have all the flowers gone?” and described a deal which had been made between South Africa’s National Botanical Institute and an American company called Ball, where exclusive rights were given to the company to breed varieties of our indigenous daisies and sell these “new” varieties with a small share of the profit returning to South Africa. Numerous people I spoke to said they felt sick when they read the story. When I asked them why, they said they didn’t like the idea of Americans owning our flowers. They didn’t really like the idea of anyone owning flowers. And finally, they didn’t like the idea of a company owning potential flowers. They saw this as ultimately selfish, as though someone continued into adulthood the childhood game of “bagsing” or hoarding something they couldn’t use then just so that someone else couldn’t have it.

What people were saying was no to this type of economy in which all things—present and future—can be owned and traded. They did not believe that this was the way in which to manage the subtleties and complexities of the diversity of nature and people’s relationship to it. Yet in the reality that now surrounds global trade, intellectual property rights and the global economy, NBI made a rational and pragmatic decision to get some money from South Africa’s rich biodiversity rather than none. After criticism of the deal was published, the Chief Executive Officer of the National Botanical Institute wrote that:

“For over 200 years South African plants have been propagated and displayed in the gardens of Europe. Our colorful pelargoniums, called geraniums in England, decorate nearly every window box and sidewalk—over \$2.5 billion worth of geraniums being sold annually—without a cent coming to South Africa as royalties.”

Yet people were outraged by the NBI-Ball agreement, by the fact that a very important part of their development and well-being, their connection with the natural world and what they consider their home and environment by virtue of history and geographical location is completely ignored in international discussions and agreements on trade and intellectual property rights. People are told that the issues are too complex and technical for them to understand and there-

fore their opinions don't matter. We need to counter this. Yes, at many levels the issues are technical and complex, but they are also simple. What is Africa trading? We are selling raw materials and buying debt. Natural resources and money in the form of debt repayments continue to flow out of Africa. And something we don't often think about: intellectual capacity. Almost a quarter of South African Chartered Accountants live abroad. Britain and the U.S. actively recruit teachers, nurses, doctors and computer scientists, taking our best professionals out of the continent. One in three African university graduates live outside Africa. We are effectively subsidizing the education of America, Europe and Australia's work force.

Export-led growth—in which intellectual capacity should be a prime example—is said to lead to development. We are told that there is no other way of alleviating poverty. Yet public investment—a tried and tested way of addressing poverty as demonstrated during the American depression—is seen as a dirty phrase, something that distorts the market, is inefficient and detracts from all this “great good” that is said to arise from increased trade liberalization. With increased trade liberalization and capital flows come increased efforts by governments to create a good climate for investment. They say that increased investment will bring jobs, wealth and a decrease in crime. But private investors are put off by labor intensive production; strong unions are a disincentive to investment. So to create a good climate for investment, we need to improve labor efficiency and cut the very jobs that investment is going to create. It doesn't make sense! Yet development does make sense and we need to be very clear what we mean by it, if we aren't going to fall into the trap of “environment” versus “development.”

In many forums, development has become synonymous with economic growth. Yet it is so much more than that. For humans to thrive and prosper, we need far more than money. (And certainly some of us need far less money!). Yes, development is about getting enough to eat and to live healthy lives. But it is also about equity and the human spirit. It is about fulfilling non-material needs. It is about justice and dignity. Economic growth, as traditionally defined and measured, does not address these issues. In many instances, it is not even a prerequisite for these issues. Unregulated, the export-led growth model, which is integral to globalization, has, and will continue to, exacerbate poverty, inequity and injustice.

In conclusion, I would like to touch on what we can expect from the World Summit on Sustainable Development to be held in Johannesburg in 2002. We need to use the Summit to re-assert and revitalize sustainable development and environmental justice. Globalization cannot meet the physical, community and psychological needs of most people. It cannot help us live within the laws of nature and the limits of the earth. Trade should not be seen as an end in itself. It is an important and necessary part of our lives, but should not be used to justify further exploitation of people and their environments.

Finally I would like to extend a warm welcome to you all as you work towards Johannesburg 2002. I trust that together we can make the Summit a success, both for the global community and for the millions of people who live in Sub-Saharan Africa who have experienced some of the worst sides of colonization and globalization.

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# The UN Financing for Development Process

*Kamal Malhotra, UNDP*

## I. History

It is important to realize and understand that the demand for such a high-level conference has been driven by the South from its early origins.

The first debt crisis which formally began when Mexico defaulted on its external debt in August 1982 can be viewed as creating the conditions for this demand which was first explicated in the late 1980s when it became clear that it had been a “lost decade” for Latin America and that the net transfer of resources from North to South was negative with a real positive transfer of resources from South to North largely through debt payments instead.

Yet, the call for such a conference, which unsurprisingly came from the Latin American countries was not heeded, particularly by the North who did not see the need for such a conference. This situation remained the same for much of the 1990s but the Asian led global financial crisis which broke in 1997, together with the continuing decline of Overseas Development Assistance (ODA) in the 1990s and the unfunded commitments of the major UN Conferences of the 1990s all made such a conference inevitable, even if there remained unenthusiastic support for it in the North. Despite the reluctance of the North to hold such a conference under UN auspices, continuing calls for reform of the global financial architecture have, nevertheless, made the impetus for such a high-level event hard to ignore as the world entered the 21<sup>st</sup> century.

## II. Agenda

It took approximately 3 years from 1997 to agree on an agenda, which was formally adopted at a Preparatory Committee (Prepcom) meeting in mid-2000 with the help of the Mexican facilitator. Six major themes were agreed as part of the agenda: Domestic Resource Mobilization, ODA and International Cooperation, Debt, Trade, International Financial Flows and Systemic Issues but for practical purposes, Debt was later combined with ODA and International Cooperation for some purposes and with Systemic Issues for other purposes.

It is clear from the above that this is a very comprehensive and important agenda for the South, hence its importance to developing countries. Yet at the first Prepcom, the status and venue of the “high-level” event remained unresolved. Indeed, resolution of both were inextricably linked since no government was willing to offer a venue for the event until its status was first decided.

### **III. Key Innovative Features**

These include at least the following:

- the attempt, for the first time ever, to include the Bretton Woods twins and the WTO in the event's design right from the beginning,
- related to the above, the first event ever to try to bring together Ministers of Finance, Trade, Foreign Affairs and Heads of State in one event with a united and coherent position on behalf of their governments,
- the inclusion of civil society (CS) and private sector hearings as part of the official event with their contributions recorded as an official input into the second Prepcom in February 2001.

### **IV. Process Agreed at First Prepcom**

- Regional Consultations
- Global Hearings with civil society and the private sector
- Three Prepcoms (later modified to include a fourth in January 2002)
- Consultations of the Financing for Development (FfD) Bureau/Secretariat with the Boards of the World Bank, IMF and WTO General Council
- Creation of five Working Groups comprising membership from inter-governmental (IGOs)
- Secondment from IGOs to the FfD Secretariat
- UN Secretary General's (SGs) report to the Second Prepcom based on output of Working Groups
- SG appointed High Level Panel on FfD.

### **V. Second Prepcom (February 12-23, 2001)**

This Prepcom was not a negotiating forum, only for dialogue and trust building, especially between North and South. This was seen as particularly important given the difficult and contentious nature of many of the themes and the differing views on them.

At the risk of generalizing, the G77 and PR China frequently had common positions while the EU largely spoke with one voice and was broadly supported by the USA, Canada, Australia and other Northern countries.

The modest gains of this Prepcom were the building of some trust (but how real was this?), the presence of Finance Ministry representatives in a few delegations for the first time (still too few!) and more importantly, perhaps, agreement on the status of the event as a high level stand-alone international conference with a summit segment, despite the objection of the US delegation in particular. The agreement on Mexico as the venue was, no doubt, part and parcel of the agreement on the status of the event, since consensus on this location was probably pivotal to an agreement on the status of the event, which in turn was crucial to Mexico's willingness to host the conference.

On the negative side, there was still very little presence of Finance and Trade ministry representatives in the FfD delegations from both North and South, the linkage with social and environmental issues and the UN Rio + 10 (WCSD) was almost non-existent with almost no one making the links and there was very little substantive discussion of the key content of the agenda. Moreover, it was increasingly clear that what the North wants from the conference is very different from what the South wants from it while the South was clearly not ready with substantive negotiating positions.

Overall, in addition to status and venue, some agreement was reached in the Prepcom's final resolution, however. It was agreed that the third Prepcom would be split into two parts with the first part to be held from May 2-8, 2001 (as a non-negotiating forum for continuing dialogue and trust-building) while the second week of the Prepcom would be held in October 2001 as the first negotiating forum. April 15, 2001 was set as a deadline for submission by delegations of themes and issues for further discussion in the third Prepcom. These were to be submitted to the facilitator who would then put them into a report which would be the basis for discussion in the third Prepcom's first week in May.

## VI. Key Schisms and Divides

In general, these appear to exist very much along North-South lines in this conference's agenda and process and include:

- priority to domestic resource mobilization (EU/US) versus other five agenda themes (G77/PR China)
- status of event (G77/PR China wanted international conference at summit level while US wanted it merely to be a Special Session of the UN General Assembly with no independent status, and definitely not at the Summit level)
- Outcomes (EU/US only keen on a declaration with no Plan of Action or Workplan while G77/PR China want the latter in addition to a declaration)

- When to start negotiations (G77/PR China would have liked to do this as early as possible while EU/US have not been keen to negotiate since they are not looking for a substantive outcome)
- Role and relationship between Bretton Woods institutions and UN and other
- Systemic issues (EU/US not keen to see any discussion or decision on these issues in this conference while G77/PR China see the Systemic Issues agenda item as the one most for them).

## **VII. Where Do We Go from Here and How Can the Links with Rio + 10 be Made?**

First, it needs to be said that the links between FfD and Rio + 10 are crucial to make and should not be delayed. It will be particularly important to get the South interested in Rio + 10 since their priority at this point appears to be FfD rather than Rio + 10. Unless, the methodology of the latter reflects a bottom up agenda based on an environment and broader sustainable development agenda from a development perspective, it is unlikely that the South will view Rio + 10 enthusiastically or give it importance. At the global level, globalisation is the common thread of both UN conferences and this link should be made in a manner that prioritizes the concerns of the South.

## **VIII. UNDPs Engagement in FfD**

UNDP views FfD as very important for both substantive and institutional reasons with key contributions to make on ODA, Global Public Goods, Debt and Trade from a developing country and human development perspective. It has actively participated in the Secretariat and in the Working Groups that informed the SGs report to the February Prepcom in addition to the Prepcoms themselves. It has also supported participants to the global civil society hearings and will over the coming months be supporting national level processes involving governments and civil society. UNDP has an in-house working group on FfD which is in the process of discussing and finalizing UNDPs process support to developing countries as well as its positions on the substantive issues in the FfD agenda.

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## From Rio to Johannesburg

*Felix Dodds, United Nations Environment  
and Development Forum (UNED-Forum)*

*“Sustainability is a political choice not a technical one. It’s not a question of whether we can be sustainable but whether we choose to be.”*

Gary Lawrence

Perhaps it should be from Stockholm to Johannesburg as the first UN Conference occurred there in 1972 and put environment on the map in a big way for the world. Before Stockholm there was only one government with an environment Ministry, the UK, no environmental press core, no international intergovernmental body (UNEP was set up as a result of Stockholm), no international regulatory agreements (UNEP playing a great part in creating them after Stockholm) and very small membership of environmental organizations.

The 1987 Brundtland Report set the scene for the UN Conference on Environment and Development (the Rio Conference) in 1992. It identified key challenges the world was facing and called for a World Summit to address it. The General Assembly in 1990 agreed to a Summit and the outcomes from the Summit are more than first thought of:

- Agenda 21
- Rio Declaration
- Climate Change Convention
- Bio-diversity Convention
- Forestry Principles

These are the agreements signed in Rio in 1992 but the Summit also set in motion a further set of regulatory frameworks in three other areas:

- Desertification Convention (ratified in 1994)
- Straddling Fish Stocks Convention (still three short of coming into force)
- Persistent Organic Pollutants (opened for signature)
- Prior Informed Consent (not yet in force)

It would be fair to say that Rio during a period of right of center governments in developed countries birthed the greatest set of regulatory frameworks covering climate, biodiversity, fish stocks, desertification and chemicals that any single meeting has ever done.

This wasn't the only success out of the summit in addition we had:

- the setting up of UN Commission on Sustainable Development
- Local Agenda 21 (over 3000 at the last count)
- an increased role for stakeholders in intergovernmental meetings on sustainable development
- the setting up of national councils for sustainable development in over seventy countries

The five year review in 1997 know as Earth Summit 2 by many commentators was a failure by comparison. Governments started preparing only a few months before but even this did have an impact, it:

- did give Heads of State and key government officials space to discuss climate discussions in Kyoto and probably had a very important effect on the outcome;
- reminded governments at the highest level about the need to fulfil the obligations on Aid flows which started to go back in the right direction towards the target of 0.7percent GNP eighteen months later.
- developed a work programme for the UN CSD for the following five years which for the first time brought in stakeholder groups into the decision making process in a more structured way;
- played a key role in killing off the multi-lateral agreement on investment being negotiated within the OECD;
- stopped the negotiations for a Forest Convention;
- introduced three new areas not covered in Agenda 21, tourism, energy and transport;
- secured the replenishment for the Global Environmental Facility
- was a wake up call for the world that the agenda from Rio was slipping and needed better focus to succeed.

But are we better off since Rio. To highlight a few of the challenges:

**Freshwater:** Two thirds of the world's population will live in water stressed areas by 2025. Some three billion people will not have enough water to drink, to satisfy hygienic needs, or to produce food. Not to speak of the wider impact that water scarcity is having on key ecosystems, such as forests and wetlands.

**HIV AIDS:** 34.3 million people were infected with HIV by the end of 1999, five million are newly infected each year and six thousand lives are lost every day due to AIDS related infections. Eighteen million lives have already been lost and thirteen million children have been orphaned as a result. Countries in Sub Saharan Africa account for some seventy percent of total number of people infected globally. In countries like Botswana thirty-six percent of adults—more than one third—are infected with HIV. This is taking a devastating toll on individual lives, communities, workforces and economies.

**Energy and climate change:** Two billion people (or one third of the world's population) lack access to electricity and rely on biomass fuel for energy. The fossil fuel industry is worth US\$1 trillion per year. Per capita energy use in the USA is five times the global average, as compared to Sub Saharan Africa where per capita energy use is one tenth of the average. The warmest twenty-three years since record keeping began in 1866 all occurred after 1975. And four out of five of the warmest years on record occurred in the 1990s.

**Fisheries:** Over fifty percent of our fisheries are either being exploited beyond their sustainable replenishment or at the edge of it.

**Poverty:** More than 1.3 billion people live on less than one dollar a day. A ten-fold reduction in resource consumption in the industrialized countries is a necessary long term target if adequate resources are to be released for the needs of developing countries.

**Transport:** Since World War II, the number of vehicles on the road has risen from 40 million to 680 million. At current rates of expansion there will be one billion vehicles by 2025. Transport is one of the major contributors to greenhouse gas emissions and urban pollution.

**Financing sustainable development:** Rio estimated that there needed to be a transfer of \$125 billion a year from north to south to enable developing countries to develop sustainably—aid flows at present amount for less than half of this and for the first time since 1991 they are on the up again. However, new money will need to be found for 2002 to be judged a success.

For Johannesburg these and other key issues will need to be addressed. Heads of State should come to South Africa saying they have ratified the Rio Conventions:

- Ratification of Kyoto
- Ratification of Bio-safety
- Ratification of Straddling Fish Stocks
- Ratification of Persistent Organic Pollutants

- Ratification of Prior Informed Consent
- Funds for Desertification Convention

Another issue the summit will have to address is international architecture for sustainable development. This would include the relationship between WTO and the Environmental Conventions, the role of the CSD, the Conventions to each other and the CSD.

There is very little time left before the Summit in September 2002 and so much work needs to be done to make the summit a success. It may seem too much but it may be the only chance for this generation to address these crucial issues as Tony Blair says:

“This Earth is the only planet in the Solar System with an environment that can sustain life. Our solemn duty as leaders of the world is to treasure that precious heritage and to hand on to our children and grandchildren an environment that will enable them to enjoy the same full life that we took for granted.”

## The Option of a World Environment Organization

*Frank Biermann<sup>1</sup>, Potsdam Institute for  
Climate Impact Research (PIK)*

As demonstrated by this meeting, the debate on institutional reform of international environmental policy-making has gained momentum. A number of actors, including some governments, have called for the replacement of the United Nations Environment Programme (UNEP) with a stronger “world environment organization,” although no consensus on the need for such a new agency or the best model for its design has yet been reached.<sup>2</sup> The creation of a new agency has been endorsed by the former heads of the World Trade Organization (WTO), Renato Ruggiero, and of the UN Development Programme (UNDP), Gustave Speth, as well as by the designated new WTO director, Supachai Panitchpakdi. Several academics and expert commissions, too, have advocated a world environment organization. Notably, a number of governments have come forward with proposals for establishing a global agency for environmental protection, among them Brazil, France (Voynet 2000), Germany (Trittin 2001), Singapore, and South Africa. Given this increasing support for a new body, opponents of a major organizational reform have also weighed in, including the former executive secretary of the Convention on Biological Diversity, Calestous Juma (2000; cf. in direct response Esty 2000), and the academic Konrad von Moltke (2001).

Yet most actors in this debate mean different things when talking about a new organization, and no consensus on its optimal design has yet emerged. In essence, proposals can be grouped into three different models for a world environment organization, the ‘cooperation,’ the ‘centralization,’ and the ‘hierarchization’ models.<sup>3</sup>

Regarding the cooperation model, UNEP would merely be upgraded into a specialized UN agency, such as the World Health Organization (WHO) or the International Labor Organization (ILO), and no other agencies or regimes would be disbanded.<sup>4</sup> Supporters of such a model expect from a strengthened environmental actor the facilitation of norm-building and norm-implementation processes that would be brought about by stronger capabilities of the organization especially in the field of capacity-building in developing countries, and by new legal and political powers of a specialized UN agency that exceed the current mandate of UNEP. For example, such a world environment organization could approve by qualified majority vote certain regulations, which are then binding on all members. The general assembly of a world environment organization could also adopt draft treaties that have been negotiated by sub-committees under its auspices. The ILO Constitution, for example, requires its parties to submit, within one year, all treaties adopted by the ILO General Conference to the respective national authorities and to report to the organization on progress in the ratification process. This goes much beyond the powers of the existing UNEP Govern-

ing Council, which can initiate intergovernmental negotiations, but cannot adopt legal instruments on its own.

Advocates of a centralization, or 'streamlining,' model call for a wider reform. They want to integrate various existing agencies, programs and regimes into a world environment organization, by which they expect gains in efficiency and better coordination of environmental policy. The integration of environmental regimes could follow the model of WTO, which has integrated various multilateral trade agreements under its umbrella. Some other agencies could be streamlined, too. Daniel C. Esty, for example, has named at least seven international bodies, such as the World Meteorological Organization, that could, in his view, be condensed into a single international agency on environmental issues (Esty 1996, 111).

A third model is the hierarchization model, that is, a quasi-supranational agency on environmental issues that would have decision-making and enforcement powers *vis-à-vis* a minority of non-consenting states if global commons are at stake. This would help, it is argued, to overcome the free-rider problem in global environmental governance. The only example for such a body so far is the UN Security Council with its far-reaching powers under Chapter VII of the Charter. However, although some writers have called for a world environmental organization with sanctioning powers, and the Hague Declaration (1989) seems to veer in this direction, little support for the hierarchization model is currently evident.

In view of the complex present situation in international environmental affairs, it seems that the best option for the next decade—perhaps with a view to the Rio+10 events in the year 2002<sup>5</sup>—will be to follow the first model by upgrading UNEP to a full-fledged international organization while maintaining the current system of decentralized, issue-specific international environmental regimes. Yet this new organization should have legal personality and its own budget (based on assessed contributions), along with increased financial and staff resources and a stronger mandate especially in the field of norm-setting.

In the long run, however, it would appear that the simple cooperation model should be superseded by the second, the streamlining or centralization model. In other words, a world environment organization should be created with a view to a closer integration and coordination of the myriad environmental treaties in the same manner in which WTO has integrated the major trade agreements (Biermann 2000). This would require a basic Agreement on Establishing the World Environment Organization, which would contain a number of general principles—perhaps building on the 1992 Rio Declaration on Environment and Development—as well as coordinating rules that govern the organization and its relationship with the issue-specific environmental regimes.

Such a move would enable the world environment organization to develop a common reporting system and a common dispute settlement system for all multilateral environmental agreements. It would also strengthen the standing of the world environment organization that may then, for example, elaborate inter-

nationally acceptable environmental guidelines to be used for the activities of the World Bank and the WTO dispute settlement system. Also, integration of multilateral environmental treaties into one organization would allow for developing a joint system of capacity-building for developing countries along with financial and technological transfer.

Establishing a world environment organization would also create a number of welfare gains by reducing bureaucratic overlap and by increasing the overall efficiency in the system. For instance, the sometimes minuscule secretariats of multilateral environmental agreements could be integrated into the new organization. Negotiations could geographically be centralized, which would especially benefit developing countries that are often unable to send diplomats with sufficient expertise to all the various environmental treaty conferences around the world. A world environment organization at one specific seat in Africa would allow smaller developing countries to build up specialized “environmental embassies” with a highly qualified staff able to follow the various complicated negotiations. The same holds for nongovernmental organizations, which could participate in global negotiations at lower costs.

Critics have correctly pointed out that the really crucial issues are the lack of capacity for environmental policy in the developing world and the sluggish implementation of obligations by industrialized countries. I agree with Calestous Juma (2000) that “there is no guarantee that the new agency will perform better in this regard.” Yet the distressing current state of affairs does not offer much hope for improvements either. Judged against the weak UNEP, a world environment organization would be in a much better position to embark on a new global capacity-building and technology-transfer initiative. It could also host the clean development mechanism and the clearinghouse for the future emissions trading scheme under the Kyoto Protocol, which might contribute by small user fees to the financing of the new organization.

Hence it seems that a world environment organization would be in the interests especially of developing countries, by providing for a more efficient and more effective transfer of technology and financial assistance and a more efficient negotiating system that will increase opportunities of Southern nations to raise their voice in global fora. This will include the chance of better coordination of Southern positions, which will strengthen the collective bargaining power of developing countries.

Of course, for both North and South a powerful world environment organization would hardly be acceptable if decision-making procedures did not grant them sufficient control over the outcome of negotiations and the organization’s future evolution. Thus, a strong organization seems feasible only with a double-weighted majority system comparable to that of the Montreal Protocol as amended in 1990 or of the Global Environment Facility as reformed in 1994. In both institutions, decisions require the assent of two thirds of members that must include the simple majority of both developing and developed countries. Such decision-making procedures based on North-South parity—that is, veto

rights for both South and North as a group—could ensure that the world environment organization would not evolve into a conduit of eco-colonialism as some Southern actors suspect.

Likewise, a *sine qua non* for a world environment organization is that it does not detract from the compromises reached at the 1992 Earth Summit. In particular, the constitutive treaty of a world environment organization must encompass more than purely environmental rules but must address above all the development concerns of the South, too. Thus principles such as the right to development, the sovereign right over natural resources within a country's jurisdiction or the principle of common but differentiated responsibilities and capabilities need to be integrated into the constitutive instrument of the organization.

Given the current state of environmental politics, creating any form of a new agency might appear unrealistic to some. Yet two decades ago, the establishment of an international criminal court or a world trade organization appeared unrealistic, too. It is time again to demand the impossible.

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## Endnotes:

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<sup>2</sup> On different proposals of new international bodies for environmental protection, see, for example, Declaration of The Hague (1989), Desai (2000), Palmer (1992), Charnovitz (1993), Runge (1994) and Esty (1994, 1996).

<sup>3</sup> See in more detail Biermann 2000 and 2001. For a different cut of these three models, see German Advisory Council on Global Change, forthcoming.

<sup>4</sup> In large measure, this cooperation model is the type of agency that is currently supported by the German government, which suggests, in a somewhat more modest fashion, the upgrading of UNEP to a UN-internal autonomous body that reports to the UN General Assembly (similar to the UN Conference on Trade and Development, UNCTAD). Roland Mauch, head of the Division on United Nations Economic and Development Affairs, Federal Foreign Office, Government of Germany, personal communication, Aug. 2000.

<sup>5</sup> See the Malmö Declaration 2000, stating in paragraph 21, "The 2002 review of the implementation of the outcome of the United Nations Conference on Environment and Development (UNCED) should be undertaken by an international conference at the summit level. The objective should not be to renegotiate Agenda 21, which remains valid, but to inject a new spirit of cooperation and urgency based on agreed actions in the common quest for sustainable development ...," and in paragraph 24, "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."



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# Towards a Substantive Reform of Global Environmental Governance—Against the Creation of a World Environment Organization

*Sebastian Oberthür, Ecologic*

Institutional reform has been an issue of international environmental policy ever since its inception. The World Summit on Sustainable Development in Johannesburg in 2002 will provide an important focal point for this debate. The discussion needs to be rooted in a sound analysis of the major challenges the existing system of international institutions face regarding the environment at the beginning of the 21<sup>st</sup> century: As is well-established in any textbook on environmental policy, any solution has to fit the problems addressed.

In the following contribution, I briefly analyze what the major problems of international environmental policy are in institutional terms. On this basis, I subsequently argue that the creation of a world organization with particular competence for the environment promises very little to solve these problems, and may even undermine the legitimacy of international environmental policy in the long term. Rather than creating a world organization, the Johannesburg process may contribute to institutional reform by ensuring the entry into force of the Kyoto Protocol and addressing the issue of financing for sustainable development. In the long term, countries will need to address the constitutional question of how much authority for making decisions and implementing them should be transferred to international institutions—irrespective of the establishment of a world organization.

## I. Major Challenges to the Existing System of Global Environmental Governance

A growing number of international institutions—including multilateral environmental agreements, international organizations and UN bodies—deal with environmental matters. They provide the framework for (1) collective international decision-making and (2) implementation as well as for the (3) coordination between different such institutions and processes. The major existing problems that inhibit the effectiveness of the system are related to these three functions (see in general Sand 1990; Oberthür 2000).

**Decision-making** in international institutions related to the environment has remained largely based on the consensus principle, i.e., decisions can only be adopted if no single country objects. Examples where the consensus principle has been overcome and some kind of majority decision-making has been introduced (Montreal Protocol for the protection of the ozone layer, GEF (Global Environment Facility)) have remained the exception rather than the rule. As a

result, progress in international negotiations on the environment has proven to be slow, and frequently disproportionate concessions have been made to small minorities of countries who threaten to block agreement.

The **implementation** of decisions, once taken, is time-consuming as well. Once agreement has been reached, states usually have to ratify it before it enters into force. Furthermore, they have to pass implementing legislation domestically and ensure that international rules are complied with. In addition to timing issues, implementation remains incomplete in many contexts, be it due to lack of resources or insufficient efforts by countries. In this respect, assistance to developing countries in particular, including capacity building, has remained deficient as have the opportunities to apply disincentives or sanctions to enforce international obligations in the case of countries neglecting such obligations.

The insufficient **coordination** between different international institutions relevant for the environment has increasingly come to the fore with the growing number of such institutions during the last decades. As a result, the demand for coordination has increased in order to avoid overlap and prevent potential conflict (e.g., between the WTO and multilateral environmental agreements) as well as to tap the growing potential for synergy. Preventing conflict and enhancing synergy may to some extent be achieved through the improved exchange of information, but also requires political decision-making in a number of cases where conflict is of a political nature (i.e., rooted in differences of interest) (see on the issue in general Young et al. 1999; Gehring/Oberthür 2002).

This assessment of the existing major challenges facing international institutions relevant to the environment should not mislead us to neglect the significant achievements that have been reached in the last decades. As mentioned above, the consensus principle has been overcome and majority decision-making introduced in some important contexts. Specific incentives and disincentives with respect to compliance with international obligations have been introduced in several institutions as well, and the number of specific compliance mechanisms has been growing. The GEF has also become an influential instrument for implementing effective measures on global environmental matters and building relevant capacity in developing countries. Any proposals for institutional reform will thus also have to be judged with respect to their ability to preserve (and enhance) these and other achievements (see also Moltke 2001).

## II. A World Environment Organization: What on Earth for?

Many proponents of the creation of a world organization with competence for environmental matters appear to share at least in large part the analysis of the existing challenges. They even frequently justify their proposals by pointing to (part of) the aforementioned deficiencies (see, for example, Biermann 2000; Esty 1994).

Whether called a World Environment Organization (WEO), a Global Environment Organization, a World Organization on Sustainable Development or something else—the essence of all the proposals appears to be the creation of an organization (the scope of which is what may differ). An organization as such, however, does nothing to address the aforementioned major problems of international institutions related to the environment. Many existing international organizations face the same problems. Lack of resources and difficulties in ensuring effective implementation and enforcement are, for example, frequently cited as the main weaknesses of the World Health Organization (WHO) and the International Labour Organization (ILO). Rules for making decisions within such organizations vary widely, but consensus remains the procedure of choice here as in multilateral environmental agreements and most other international institutions. Since an international organization does not appear to be particularly helpful when it comes to the major problems identified above, there exists a logical disconnection where a world organization is to be created in order to address the challenges facing international environmental institutions. Establishment of a WEO cannot substitute for addressing these challenges.

One function of organizations is to organize policy fields, i.e., they determine how and to what extent issues within a policy field are dealt with and negotiated separately or together. For example, in the context of the World Trade Organization (WTO), rather large packages have traditionally been negotiated with rules on agricultural products being discussed in a package with, for example, rules on trade in manufactured goods. In contrast, some UN organizations such as the ILO and the UN itself provide for a rather loose framework for negotiating substantively separate agreements.<sup>1</sup>

If a WEO was modeled after the latter example, little substantive change would occur as compared to the current situation: existing multilateral environmental agreements would be assembled under a common roof, but would operate under the same decision-making rules as before. Separate decision-making rules would be devised for each future agreement. No further funds would be spent on implementation or capacity building (indeed: why should countries be prepared to provide more resources in such a scenario?) nor would the rules governing implementation change. Such a WEO may achieve an improved exchange of information between the various environmental institutions, thus improving the chances of synergetic coordination. However, where conflicts between different institutions are rooted in conflicts of interest, these would remain unabated. With respect to the WTO, for example, a WEO might have some positive repercussions on the standing of environmental issues in the WTO. However, since substantive rules on how to deal with such conflicts would not occur as a result of a 'common roof,' such positive effects would primarily remain in the area of psychology.

If a WEO was used instead to combine different issue areas, its creation might actually have negative net-consequences on international environmental policy-making. The very basis of the progress achieved so far in international

environmental policy has been the separation of issue areas, very much following a logic inherent in the policy field of the 'environment': that each issue requires a solution that is tailor-made to the specific circumstances at hand (see also Moltke 2001). This approach has also helped overcome the problem that stalemate in certain issue areas may prevent overall progress and it has allowed institutional 'innovation in niches.' Combining different issue areas in a WEO would thus risk losing these achievements. It may indeed enhance deadlock in international environmental policy: for example, how could combining international negotiations on climate change and on biodiversity possibly not lead to complete deadlock? Furthermore, it is hard to see how the creation of such a WEO could improve implementation, lead to an increase in resources, and resolve political conflicts between different institutions in an environmentally effective way.

Therefore, the creation of a WEO promises very limited substantive progress at best in addressing the major challenges the system of international institutions relevant for the environment faces in the 21<sup>st</sup> century. Such a WEO would need to be designed very carefully to reap any benefits at all. By the same token, creating a WEO has important potential draw-backs that may well exceed the rather minimal benefits. For example, a centralization of international environmental policy-making endangers the very strength of the system thus far, namely the 'innovation in niches' and the design of solutions that are adapted to the particular circumstances of an issue.

Finally, significant political resources will need to be spent to win the support of governments and relevant international bodies for a WEO. Part of these political resources hinges upon the issue being perceived as important by the public. Proponents of a WEO currently attempt to generate this public support by pointing to the major problems introduced above. Disappointment of public expectations is a virtually inescapable consequence of this strategy since a WEO will, as argued above, be unable to solve the major problems that are used to justify and legitimize its creation. This can hardly be outweighed by a possible short-term increase of legitimacy of international environmental policy resulting from the symbolic value of creating a WEO. The long-term implications entail growing feelings of impotence and perceptions of insignificance that may de-legitimize international environmental policy, once the inherent limits of the WEO become obvious. Environmental policy-making in particular has a responsibility to consider such long-term costs against potential short-term benefits.

### **III. The Potential for Substantive Progress**

It follows from the above that improvements in the substance of how international rules are arrived at, how international obligations and policies defined in international institutions are implemented, and how effective coordination between international institutions relevant to the environment is achieved, is far

more important than any formal change of the 'clothes' that cover what may actually be a 'naked emperor.' Progress towards an improved substantive core/body of international institutions is possible without a WEO. Governments could replace the consensus principle with some kind of majority decision-making, they could introduce fines and/or international taxes and/or increase funding to further implementation and capacity building. They could also define rules so as to prevent conflicts and enhance synergies between existing institutions including the WTO, etc., and they could do all this within the current institutional framework.

What would be needed to make such substantive progress (and what has been lacking to date) is the political will to transfer competences that are traditionally considered to be part of national 'sovereignty.' The long-established resistance to transferring part of national authority to the international level and international institutions cannot be overcome immediately. We cannot expect to make major headway in this respect until the Johannesburg Summit. More time and a step-by-step approach will realistically be needed to achieve the ultimate objective.

Agreement on how to address the major challenges the system of international institutions relevant to the environment faces could eventually take the form of a Covenant on Global Environmental Governance. Before such a Covenant can be concluded, the major challenges need to be acknowledged and potential ways for addressing them discussed in depth and in detail. As this discussion will require some time, the Johannesburg Summit cannot be the endpoint of such a process but only the beginning. States and 'world civil society' could acknowledge the challenges and agree to focus on addressing them. Starting discussions on a Covenant on Global Environmental Governance needs the injection of momentum by the highest political level since the issues to be addressed are of a political nature (ex: 'national sovereignty'). The Johannesburg Summit provides an opportunity in this respect since Heads of States and Governments are expected to attend and could provide the needed political impetus.

At the same time, the Johannesburg Summit can do more than start discussions on the 'constitutional framework' of global environmental governance. Significant opportunities to introduce and broaden crucial institutional innovations can be grasped within the existing system of institutions. Two outstanding examples come to mind immediately: the Kyoto Protocol, and the GEF and the general issue of financing for sustainable development.

Ensuring entry into force of the Kyoto Protocol to the UN Framework Convention on Climate Change would probably represent the most important institutional innovation in global environmental governance for the last decade (on the Protocol see Grubb et al. 1999; Oberthür/Ott 1999). According to the current state of affairs, entry into force of the Kyoto Protocol would not only mean the introduction of market mechanisms such as Joint Implementation and emissions trading into international environmental policy, but also of an innovative quasi-judicial compliance mechanism that would open up hitherto

uncharted territory; and also a far-reaching system of supporting and engaging developing countries (on the state of affairs see Ott 2001; Grubb/Yamin 2001). As a result, the institutional system of global environmental governance would take a major step forward with the entry into force of the Kyoto Protocol. The Johannesburg Summit provides a suitable focal point and indeed an exceptional window of opportunity for pushing forward ratification by the required number of states to breath life into the Protocol.

Major headway can also be made in strengthening the institutional framework of generating new and additional resources for capacity building and sustainable development in developing countries and the development of the GEF in particular. Discussions about the replenishment of the GEF beyond 2002 and the future scope of its activities coincide with the Johannesburg process. Increasing the level of funding and bringing all global environmental issues under the umbrella of the GEF could make it truly the central global institution for financing for the environment. Moreover, alternative routes for 'financing for sustainable development' may be pursued on the road towards the Johannesburg Summit and relevant decisions taken there (see contributions on financing for development in this volume).

In addition, strengthening the United Nations Environment Programme (UNEP) by, *inter alia*, ensuring a stable appropriate financial basis and increasing its ability to enhance the exchange of information between multilateral environmental agreements and relevant UN bodies might constitute a valuable contribution. Even a strengthened UNEP will, however, fall far short of solving the fundamental problems outlined above—even if it was then named a world organization. A world organization of this kind would represent a comparatively limited incremental step forward rather than a new grand design. Achieving such an incremental improvement by means of creating high public expectations can hardly be justified given the potential long-term drawbacks (see above).

If achieved, the proposed concrete steps (in particular breathing life into the Kyoto Protocol and reforming the structures for financing for sustainable development) would constitute a very significant contribution to the innovation of international institutions relevant to the environment. They would also give an important impulse to further development of the overall system of global environmental governance. In the longer term, however, a debate and in-depth discussion of a constitutional nature on the grand design of global environmental governance may be required so as to enable humankind to address global environmental issues effectively and realise sustainable development. This may best be achieved by designing international institutions that are capable of making timely decisions, and implementing policies effectively and in an integrated way. Achieving this goal will eventually depend on countries' willingness to transfer appropriate authority to international institutions for that purpose. Enhancing this willingness and ensuring the democratic legitimacy of the evolving system of global environmental governance will remain the central task for the Johannesburg Summit, and beyond.

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**Endnote:**

<sup>1</sup> A further model is provided by the EU that negotiates separate agreements within a common framework, where no country may opt out of individual agreements but may only leave the whole of the EU altogether. This supranational model appears to be unrealistic for the international level and is therefore not pursued further here; see Gehring/Oberthür 2000.



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## **Reforming the UN Governance Structures in the Sectors of Environmental Protection and Sustainable Development**

*Stephan Contius, German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety*

- I. The World Summit in Johannesburg offers a unique opportunity to make clear overall improvements to the UN architecture in the environmental protection and sustainable development sectors.
- II. In view of increasing environmental pollution worldwide, UNEP in Nairobi should be upgraded to a World Environmental Organization. Environmental protection must be given a stronger voice in the United Nations and considerably better financial backing. At present UNEP is dependent on voluntary contributions.
- III. At a time of globalization, it is more important than ever to integrate environmental protection in all relevant areas of policy, and consider economic, social and environmental policy as a whole. This can only be achieved with the cooperation of a sturdy UN environmental organization and a strengthened UN Commission for Sustainable Development (CSD).
- IV. The CSD Working Program should be fundamentally changed. Topics should each be intensively prepared in a rolling system based on a 2-year cycle. In future, the CSD should only debate one topic per year conclusively. Concentrating on one topic at a time would help promote participation of ministers from other sectors apart from environment and development and heighten the effect of CSD decisions. Furthermore, these decisions should be reviewed at due intervals.
- V. It is essential to optimize coordination between the multilateral environment agreements and their secretariats, UNEP and other UN institutions concerned.
- VI. In order to achieve concrete decisions on reforming the international governance structure at the World Summit in Johannesburg, it is necessary to carry out an open and result oriented dialogue between all interested parties, in particular in order to prepare relevant options. In this respect, the last UNEP Governing Council took a first important step in creating the relevant open-ended intergovernmental group, and further steps must build on this. The German government and its partners in the EU attach considerable significance to this matter in the preparations for the Summit.



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## Institutional Reform

*Hilary French, Worldwatch Institute*

One of the key messages to emerge from the streets of Seattle, Washington, Prague, and Quebec City is that the current system of global governance is unbalanced, favoring a narrow set of commercial values over the broader set of environmental, human rights, and labor concerns that are high on the priority lists of citizens worldwide. The upcoming Johannesburg Summit will be an important opportunity to correct this imbalance.

The new rules of the global economy are for the most part being set by institutions such as the World Trade Organization and the International Monetary Fund, where the mindset of traditional economists prevails and where the "rules" are generally aimed at unshackling global commerce rather than harnessing it for the common good. But forging an environmentally sustainable society is about more than economics, and farsighted economics is about more than reducing restrictions on the movement of goods and money. In addition to better integrating environmental and social concerns into the activities of international economic institutions, we need to strengthen international environmental governance structures so that they can act as an ecological counterweight to today's growing economic powerhouses.

The question of institutional reform has been high on the agenda of all of the major U.N. conferences on environmental issues, including the Stockholm conference on the Human Environment in 1972, the Rio "Earth Summit" in 1992, and now in the preparations for the Johannesburg World Summit on Sustainable Development. The Stockholm conference led to the creation of the U.N. Environment Programme (UNEP), and the Summit resulted in the creation of the U.N. Commission on Sustainable Development. But the fact that we are still talking about these issues suggests that these earlier efforts at environmental institution building have met with only partial success. If we are to succeed in efforts to strengthen international environmental governance in 2002, we must ensure that any governance reforms initiated in 2002 avoid some of the pitfalls of earlier efforts.

One precondition for the success of today's discussions on strengthening international environmental governance is that they grapple successfully with the proliferating role of multilateral environmental agreements.

According to UNEP, international environmental agreements now number more than 500, with agreement on more than sixty percent of them has been reached since the Stockholm conference. These accords cover atmospheric pollution, ocean despoliation, endangered species protection, hazardous waste trade, and the preservation of Antarctica, among other issues. The vast majority of environmental agreements are bilateral or regional in scope, involving, for instance, the management of river systems, air corridors, or migratory bird spe-

cies. However, a minority of environmental issues—including the atmosphere, international waterways, and biological diversity—are truly global. The last few decades have seen steady progress toward developing international rules governing these “global commons.”

Judging from the number of treaties, environmental diplomacy appears to have been a spectacular success. And many of these accords have in fact had important results. Yet even as the number of treaties climbs, the condition of the biosphere continues to deteriorate, carbon dioxide levels in the atmosphere have reached record highs, scientists are warning that we are in the midst of a period of mass extinction of species, the world’s major fisheries are depleted, and water shortages loom worldwide.

Environmental treaties have so far mostly failed to turn around today’s alarming environmental trends because the governments that created them have generally permitted only vague commitments and lax enforcement. Governments have also, for the most part, failed to provide sufficient funds to implement treaties, particularly in the developing world. Ironically, environmentalists may need to take a page from the World Trade Organization (WTO) and push for international environmental commitments that are as specific and enforceable as trade accords have become.

Environmental treaties rely heavily on transparency as an implementation tool. They generally require detailed reporting of actions taken at the national level to put agreements into practice. If this information is made freely available, then other countries as well as nongovernmental organizations (NGOs) can use it to shame countries into compliance. But governments often fail to provide secretariats with accurate, complete, and timely information, in part because they are overwhelmed with multiple reporting requirements.

The mini-institutions set up by each treaty play a key role in the implementation process. At a minimum, each treaty spawns a Conference of the Parties (COP) and a Secretariat. The COPs are regular meetings of treaty members; they provide an opportunity to strengthen the agreement and review problems in implementation. Secretariats are the small offices set up to service these meetings of governments. Environmental conventions also commonly include scientific bodies, which provide advice on new scientific and technological information relevant to the implementation of the accord.

Despite their importance, governments all too often give Secretariats limited resources and authority. For instance, the Secretariats generally do not have the wherewithal or authority to verify the information that governments are supposed to supply on implementation efforts. A typical Secretariat has fewer than 20 staff and an annual budget of \$2–11 million—a drop in the bucket compared with the budgets of U.S. federal agencies charged with implementing domestic environmental laws.

The scattered locations of the Secretariats pose an added challenge. For instance, the Secretariat for the ozone treaty is in Nairobi; the climate change treaty’s office is in Bonn; and the biodiversity treaty Secretariat is in Montreal.

UNEP has been granted control over some of these administrative groups; others report to different U.N. agencies.

One idea now gaining political currency is to upgrade the U.N. Environment Programme into a World Environment Organization (WEO) on par with the WTO. Although UNEP has had some important successes since it was founded in 1972, it has suffered from meager resources and a limited mandate. Upgrading the status of environmental issues within the U.N. system is long overdue. Still, it is important that debates over form not distract from the ultimately far more important questions of function.

A world environment organization could usefully serve as an umbrella organization for the current scattered collection of treaty bodies, just as domestic environment agencies oversee the implementation of national environmental laws. UNEP is already working to promote synergies and coordination between the environmental conventions. Bringing the treaty bodies under central management could produce administrative efficiencies, improve the opportunities for bargaining, and facilitate NGO access. But in order for any umbrella organization to have the clout it needs, the treaties themselves would need to stipulate strong enforcement capacities, and the agency would need to be endowed with sufficient financial resources to catalyze innovative programs.

In addition to addressing head-on the need for better coordination between multilateral environmental agreements, creating an effective system of international environmental governance will also require addressing the confusing and often overlapping mandates of the several existing international bodies that have environmental mandates.

Although the proliferation of environmental treaties and institutions over the last few decades is an encouraging development, part of the price of success has been a measure of duplication and inefficiency. Rather than a cohesive system for the environment, what the world has is a patchwork quilt. This disorganized system needs to be streamlined if it is to become capable of reversing ecological decline.

The U.N. Environment Programme was intended to be the linchpin of international environmental cooperation when it was created in 1972 at the U.N. Conference on the Human Environment in Stockholm. At that time, the important role that independent environmental agencies play at the national level had yet to be demonstrated. Rather than creating a full-fledged U.N. environment agency, governments instead charged UNEP with catalyzing environmental activities throughout the U.N. system, including at much larger U.N. specialized agencies such as the Food and Agriculture Organization and the World Health Organization. Because it was not to engage in projects of its own, governments decided that only a small staff was needed. UNEP's architects created an "environment fund" as a main tool through which the agency was to catalyze environmental initiatives throughout the United Nations.

But governments failed to deliver on their promises of significant resources for the environment fund. In its first two decades, UNEP's total resources

amounted to less than \$1 billion. Indeed, total spending over UNEP's lifetime has been less than UNDP's annual budget. UNEP's budget today—just under \$100 million a year—is comparable to the budgets of some private environmental groups. UNEP is significantly smaller than most other U.N. agencies, and its resources pale in comparison to the lending programs of the World Bank and the International Monetary Fund. Another problem is UNEP's location in Nairobi, far from the other agencies it is theoretically coordinating.

Many other U.N. agencies are also active in promoting environmental protection and sustainable development. At the Rio Earth Summit, governments entrusted the U.N. Development Programme with promoting "capacity building" for sustainable development by helping countries design appropriate policies and strengthen the domestic institutions required to implement them. Two years later, UNDP created a Sustainable Energy and Environment Division (SEED) to consolidate the agency's environmental initiatives, including work on capacity building, energy and atmosphere issues, the GEF, natural resources management, and desertification. The World Meteorological Organization has made important contributions to improved understanding of the complexities of climate science through its co-sponsorship of the Intergovernmental Panel on Climate Change, the World Health Organization promulgates air and water pollution guidelines that are considered the international norm, and the U.N. Food and Agriculture Organization is actively involved in promoting sustainable agriculture projects and in protecting dwindling fisheries.

Governments created another major environmental body in 1991, the Global Environment Facility (GEF), to finance investments in preserving the global commons—the atmosphere, biological diversity, and international waterways. The GEF is a funding mechanism for several environmental conventions, including the biological diversity and climate change treaties.

The GEF is an innovation in global governance, as it bridges the United Nations and Bretton Woods systems. Not wanting to create an entirely new institution, governments decided to make the GEF a joint undertaking of the U.N. Development Programme (UNDP), UNEP, and the World Bank. GEF's governing council employs an unusual "double majority" voting structure. Under this system, decisions are normally made by consensus. But in cases where this proves impossible and a matter is put to a vote, two consecutive tallies are required—the first on the basis of a one-nation, one-vote system similar to that used at the United Nations, and the second by a one-dollar, one-vote system comparable to that of the Bretton Woods institutions. This voting arrangement is intended to make the facility a joint undertaking of donors and recipients—a novel concept that offers a useful model for the governance of other international institutions.

Another important piece of the international institutional landscape for the environment and sustainable development is the U.N. Commission on Sustainable Development (CSD), which was created at the Earth Summit in 1992 as a forum where governments and nongovernmental participants could review

progress in implementing the Rio agreements, share information about what works and what does not, and discuss impediments such as inadequate financial resources or lack of access to innovative technologies. The CSD was given the task of tracking the activities of national governments, international organizations, and private actors.

Governments have used the CSD to exchange views on contentious topics that cut across traditional issue dividing lines. For instance, the commission has considered the role of trade and finance in sustainable development, as well as the question of changing unsustainable production and consumption patterns. It is also working to encourage governments to develop and use sustainable development indicators to supplement traditional reliance on the national income accounts.

Perhaps the most important contribution of the CSD has been to bring together diverse stakeholders on an annual basis to take stock of progress in putting the Rio agreements into practice. Since the first CSD session in 1993, the number of nongovernmental participants from around the world attending the annual forums has grown steadily, including high-level government ministers, local officials, business organizations, farmers, and indigenous peoples. In recent years, the CSD has sponsored multi-stakeholder dialogues on the main issues it is considering that year, including agriculture, energy, and tourism.

Looking ahead, governments must come to terms with the varying roles and mandates of these different institutions. They must either delineate a logical division of labor among these diverse agencies or merge overlapping elements of their programs into a common whole.

If today's discussions on strengthening international environmental governance are to be successful, they must also be innovative in creating new mechanisms to engage non-governmental actors, including citizen's groups and the business community.

Tomorrow's international environmental institutions may turn out to be vastly different in character than the bureaucratic bodies that predominate in many quarters today. A nascent system of international environmental governance is now emerging from diverse quarters, proving that governance is no longer just for governments. Reversing ecological decline in the early decades of the new century will require innovative partnerships between diverse actors, including nongovernmental organizations (NGOs), businesses, governments, and international organizations.

A particularly encouraging development of recent years has been the steady growth of the international nongovernmental movement. Environmental activists are flourishing at the national and grassroots level in most corners of the globe. Growth has been particularly rapid in the developing world and in Eastern Europe, where democratization over the last decade has opened up political space for NGOs. The number of NGOs working across international bor-

ders soared over the last century, climbing from just 176 in 1909 to more than 23,000 in 1998.

Empowered by e-mail and the Internet, environmental activists have gradually organized themselves into a range of powerful international networks. To name but a few, the Climate Action Network links more than 250 international groups and national organizations active on climate change; the Pesticide Action Network includes at least 500 consumer, environment, health, labor, agriculture, and public interest groups worldwide; the World Forum of Fish Workers & Fish Harvesters brings together people from small-scale fishing communities on six continents; the International POPs Elimination Network coordinates hundreds of NGOs worldwide in their push for an effective treaty to limit persistent organic pollutants.

Although globalization is reducing the ability of governments to regulate activities within their borders, it is also opening the way for "Global Public Policy Networks" among diverse actors, including international organizations, business, labor, and NGOs. Although such partnerships will not substitute for governments in the decades ahead, they could play a key role in helping to bring together the various players needed to solve diverse aspects of the planet's ecological predicament. For example, the Forest Stewardship Council was founded in 1993 to set standards for sustainable forest production through a cooperative process involving timber traders and retailers as well as environmental organizations and forest dwellers. More recently, the report of the independent World Commission on Dams has provided a new benchmark for addressing environmental and social issues in the context of dam development. Notably, UNEP will house the secretariat of the Commission's successor organization, the Dams & Development Unit.

More than thirty years ago, photographs of Earth taken from space by the Apollo expeditions indelibly impressed on all who saw them that the planet, while divided by political boundaries, is united by ecological systems. These photos helped inspire the first Earth Day, which in turn motivated numerous countries to pass environmental laws and create environmental ministries. Johannesburg 2002 offers us an important opportunity to set in motion a comparable groundswell in support of the innovations in global environmental governance that are needed to safeguard the health of the planet in the new millennium. We must seize the moment.

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# Global Public Policy Networks, International Organizations and International Environmental Governance<sup>1</sup>

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## I. Introduction

Since World War II, the transformation of the international system and the increasing number of problems of an international or even global magnitude have required the creation of a growing number of international institutions. Especially in the field of the environment, many governments have realized their inability to address transboundary environmental problems single-handed. Complex regimes evolved and international institutions aimed to ensure permanent cooperation, where periodic international conferences and other efforts were unable to settle issues. However, today these institutions are frequently accused of being unable to adequately absorb and respond to the new challenges of the global economic and social environment. National and cross-border liberalization, deregulation, integration, increased pollution, population growths and diseases like HIV/AIDS constitute a new dimension of challenge for the international community that requires innovative and new forms of cooperation and collaboration. For multilateral organizations it will therefore become critical to respond in a timely fashion to the challenges of a world characterized by a constant deepening of social and economic integration.

Much of these challenges can be absorbed with new and innovative institutional arrangements. Creative structures that link together not only different countries, but also different sectors such as governments, the private sector and civil society representatives, are needed to address global problems. In that sense, flexible and integrative networks may adapt existing hierarchical and sluggish structures to address international problems more quickly and effectively.

## II. Problem

Although international activity in the field of the environment has constantly increased over the years, environmental destruction is continuing at a growing pace. The world's physical and biological systems are facing an unprecedented strain, while the availability of financial resources is declining. Today, in the run-up to the Earth Summit 2002, the international community is more than ever required to address environmental problems, continued sustainability, and sustainable development in a more coherent and coordinated manner. To this end, institutional arrangements have to be reviewed and the international architecture dealing with environmental issues must be strengthened.

Over the last decades the intergovernmental response to the growing environmental challenges has evolved as a complicated system of institutions, programs, and more of a dozen major treaty secretariats that grew like mushrooms around the globe. However, this system suffers considerable shortcomings and questions have increasingly arisen concerning the coordination of this multi-faceted institutional architecture. Institutions have often been created without due consideration of how they might interact with the overall system. As a consequence, the solutions provided to environmental problems from international environmental regimes as well as the architecture as a whole have fallen short of both expectations and needs.

In addition, growing international interdependence, increasing economic and political liberalization, and technological globalization have added special pressure to the international environmental governance system. Due to technological change and economic integration, transnational economic networks have grown that are difficult to regulate through national legislation or international treaties. Transnational corporations are increasingly important international players and have gained political leverage relative to states and international organizations. In the wake of economic, social as well as cultural globalization, integration of the private sector is crucial for effective solutions of international problems. At the same time, political liberalization as well as technological change has led to the rapid growth of what has come to be known as transnational advocacy coalitions. Non-governmental organizations (NGOs) are often committed to single policy issues and not only influence decisions of national governments very effectively, but also build international alliances. There are literally thousands of NGOs throughout the world working for environmental protection, who devote significant resources to create international networks and to launch international campaigns.

Therefore, governments and intergovernmental organizations can no longer afford to bypass non-governmental actors, represented through civil society groups or private companies. Furthermore, in order to reach sustainable policy solutions, international governance has to face the challenge to facilitate interaction, consultation and participation between international, national and regional actors.

### **III. Global Public Policy Networks**

A new and innovative approach to global governance consists in the increasing number of Global Public Policy Networks (GPPNs). These ideally trisectoral networks are characterized by collaboration between governments, representatives of civil society and of the for-profit private sector. In the model case, they are inclusive towards the South and the North, and integrate international, regional, national and local actors.

In many cases, existing policy networks emerged in the shadow of traditional structures and started as social and organizational experiments. These networks are the response to an ever more complex social environment where traditional intergovernmental cooperation fails to find the right answer to transboundary and/or intersectoral problems. GPPNs are most likely to emerge in a situation of political deadlock. They can help to put issues on the international agenda and then kick off a discourse in which to debate that agenda. They include actors of different sectors and are typically organized in an informal or loosely structured framework that allows the network to learn and to adapt to a changing environment. Flexibility is crucial for the success of GPPNs.

The network structure is prone to fulfill different functions, such as facilitating international processes, structuring politically contentious multi-stakeholder relationships, setting global standards, disseminating of knowledge and addressing participatory short-comings. In doing so, they also address with the operational and the institutional gap two main weaknesses of the international environmental architecture.

## **IV. Examples for GPPNs**

### **A. The World Commission on Dams (WCD)**

The enormous investments and widespread impacts of large dams make the construction of large dams a highly controversial topic. Large dams bring together the entire set of issues that are central to conflicts over sustainable development, locally, nationally and internationally. Therefore, it became more and more difficult to reach agreement on the construction of large dams throughout the last decades and the number of such dams completed each year constantly declined. In the 1990s, stalemate had clearly begun to emerge between big dam opponents and proponents.

The WCD was established in 1998 to overcome this stalemate. The Commission was born out of a dialogue facilitated by IUCN and the World Bank, and consisted of 12 individuals that were chosen to reflect regional diversity, expertise and stakeholder perspectives.

The mandate of the WCD was very broad and inclusive. It was to undertake a global review of the development effectiveness of large dams and to develop internationally acceptable criteria and guidelines for future decision-making on dams. The WCD was independent, with each member serving in an individual capacity and not representing an institution or a country. The Commission conducted a comprehensive global review of the performance and impact of large dams. It held public consultations in all five continents and was funded by a new model involving public, private and civil society organizations. The Commission published its final report by the end of 2000.

Although it is too early to judge over the success of the WCD regarding its broad mandate, the final report drew widespread attention and is likely to have

created a—of course informal and not legally binding—standard against which future projects involving the construction of large dams will be measured. The example of the WCD shows the importance of inclusiveness, openness, and transparency as key principles for credibility throughout the process. In such a conflict-ridden area as the construction of large dams, trisectoral cooperation proved to be critical for the success of the Commission.

## **B. The Global Environment Facility (GEF)**

The GEF provides funding for projects with global environmental benefits in developing countries and those with economies in transition. GEF finances are made available for investment and technical assistance in four focal areas—global warming, biodiversity, international waters, and ozone depletion. The responsibility for the implementation of projects for which the GEF provides financing is shared between UNDP, UNEP and the World Bank as implementing agencies.

In March 1991, the GEF was established as a pilot program. One and a half years later, when the GEF became the interim financial mechanism for the UN Framework Convention on Climate Change and the Convention on Biodiversity, it underwent a complicated process of restructuring in order to integrate it into the more UN-driven Conventions. Through the process of restructuring, the GEF became more transparent, more democratic (with a double majority voting system), and more detached from the control of the World Bank. The new governance structure became an amalgam of UN and Bretton Woods institutions traditional features. Regime theory offers some insights about the emergence of the GEF as a hybrid, partially World Bank, partially UN institution, in terms of an extension of existing organizations and their rules and procedures. But this is not all. As a result of the negotiations, a new international entity was formed that links the different interests and stakeholder groups. The restructured GEF successfully learned from the pilot, adjusted the pilot to the Conventions, and bridged the Bretton Woods and the UN system.

Despite the fact that today's GEF is anything but perfect, its governance structure can serve as a role model for international cooperation in several ways:

- The GEF is the most transparent of all existing international agencies and the way it cooperates with civil society is surely a step ahead of other organizations. NGOs played a strong and important role during the foundation of the GEF. In that process and later on during the restructuring of the GEF, NGOs gave support to certain positions, facilitated coalitions as well as influenced the debate. Today the NGOs are partners in GEF project implementation. The GEF makes great use of the local presence and expertise of various NGOs, and the latter make use of resources provided by the former.

- The GEF is characterized by a strong ability to innovate, evolve and change. Soft law agreements dominate over legally binding treaties. The renunciation of binding and sometimes narrow legal structure enables and motivates the creation of new and innovative mechanisms like the GEF. These features make it flexible and able to innovate.
- The GEF governance structure is a unique example of how the different traditions of UN and Bretton Woods agencies can be brought together.

However, these strengths cannot disguise important flaws. These include the very limited integration of the private sector, the problem of asymmetry of power, and the operational complexity.

## V. GPPN and Global Environmental Governance

The example of both the WCD and the GEF shows that participation of all stakeholders, flexibility and the ability to learn, as well as inclusiveness to all regions is crucial for the success of international cooperation. The experience of both cases depicts—however difficult it might be—the importance of bringing different actors and stakeholder together in an open and transparent process. Only if all involved actors, governments, international organizations, non-governmental organizations, and the private sector build up ownership for the processes and its results, “sustainable” solutions in international politics can be found. In fact, the case of the WCD shows that truly trisectoral sourcing of knowledge is key for building consensual knowledge. The case of the GEF shows, that the linkage between different instruments and agencies, combined with a constant effort to seek the best compromise among all involved actors makes it able to serve as role model for alternative international governance structures.

The complexity of today’s problems and our fragmented world provides a strong argument for flexible and small institutions based more on a network of different stakeholders than on huge and new bureaucracies. In this context, the GEF and the WCD offer models of how modern governance structures could be shaped: on the basis of a minimum of formal agreements and founded more on compromise than legal precision. This openness in structure and regulation fosters a flexible agency with a strong ability to innovate. Constant evaluation and monitoring processes are crucial for this ability.

Network structures show alternatives in the international environmental architecture and can be used to promote dialogue and cooperation among different and divided actors.

GPPNs usually focus on specific, defined problems and reflect a variety of insights from game theoretic studies on the optimal number of parties to initial

an agreement or the optimal size for an organization in its early stages of development. In particular, as long as the number of involved parties is small at the beginning, parties can achieve an agreement that is more likely to be successful and sustainable than it would be if there were more parties involved, and that the validity of the agreement will persist even as more parties join. Small in this sense is not only beautiful, but also successful.

Networks ideally start with bringing together a handful of engaged, concerned, or affected people. Although this 'core' group and network might later evolve into more complex network structures, GPPNs usually have grown from the ground through a common vision of a limited number of key players. They tend to focus on clear defined problems, where they can deliver the goals set. These insights are supported by cooperation theory saying that it is important to start with the task that is easiest. As face-to-face interaction also increases people's ability to agree with one another, GPPNs can serve as forums to discuss international environmental problems. These forums are important to facilitate the process of reaching agreements between countries on measures that require international coordination. Networks also contribute to modern governance structures as they usually start informal but get formalized over the time. They are founded on the basis of a minimum of formal agreements and more on compromise than legal precision.

## **VI. The Role of International Organizations**

GPPNs, however, are not self-standing and their emergence does not automatically declare redundant existing international structures. They usually do not provide a long-term forum for open-ended international cooperation on more general matters. The creation of dozens, and even hundreds, of GPPNs does not mean that traditional intergovernmental organizations will have to be downgraded to secondary players in international cooperation.

Provided that they manage to adapt to the new challenges of our interconnected world, traditional international organizations can take a crucial seat in promoting new governance structures: They can and should foster, encourage, and catalyze dialogue among stakeholders that need to cooperate in order to strengthen and launch more informal structures, such as networks. International organizations are often well placed to highlight and address critical challenges of environmental threats. They can play an intermediary role between states and business, as well as civil society. They also enjoy a comparative advantage in issues where conflicts arise across the North-South divide. Through capacity building and funding, they can enable more widespread participation in networks. Capacity building also proves to be critical when it comes to ensuring actual implementation of results. Eventually, it is relatively easy for these organizations to contribute substantially to processes of consensual knowledge-building in scientific and technical fields. Due to this privileged position, international

organizations are able to facilitate the creation of networks and can serve as a platform for convening networks.

Yet, existing international organizations have to implement some reforms in order to be able to fulfill their new role. Until now, international organizations' involvement in GPPNs has been more or less accidental and is not characterized by any strategic approach. In many cases different agencies and programs spend considerable time and resources in competing for funds and power.

In order to overcome these problems, international organizations should develop a strategy and vision on how to work in and with emerging and existing networks. They should set priorities first and then coordinate their approaches to ensure that activities of different agencies are not duplicating or even working cross-purposes. Agencies and programs should cooperate in a way that each of them brings its specific comparative advantage to progress.

A reform of the international environmental architecture can be built on new or existing structures. While the creation of a new global environmental organization might be considered by some the best long-term solution, it seems to be more realistic to concentrate our efforts on strengthening and streamlining the current structures. UNEP is the natural candidate of an organization that could serve as a hub for networks on environmental issues. Once it has identified international and strategic priorities, it could coordinate collaboration between different international, national, and regional actors. It should elaborate an overall strategy and coordinate the efforts of international organizations in participating in and building of networks. As a clearinghouse and a center for knowledge management it should also identify, strengthen, and build networks, it should coordinate their work and disseminate the lessons learned in networks around the world. Through capacity building activities and participatory as well as transparent processes it could ensure the inclusive participation in networks. UNEP would also fulfill a combination of a catalytic and agenda-setting role with actual program development and management.

Strong environmental governance structures, built on a set of networks, coordinated and put off the ground by international organizations, may close the participatory, the operational, and the institutional gap and lead to a more successful way to address the ever increasing environmental threats to our planet.

## Literature:

I gained the insights reflected in this article through my work with Wolfgang Reinicke and his team in the "Global Public Policy Network Project" led by Wolfgang Reinicke and Francis Deng (see: [www.globalpublicpolicy.net](http://www.globalpublicpolicy.net)).

Among the flood of literature to global and international environmental governance, I would like to quote as references for my article:

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## Endnotes:

<sup>1</sup> This article is based on the “Global Public Policy Network Project” led by Wolfgang Reinicke and Francis Deng. The project took place in 1999 and was sponsored by the UN Foundation. It aimed to provide strategic advice to the Secretary General of the UN, Kofi Annan. The results of the GPPN Project are captured in: Wolfgang Reinicke; Francis Deng, “*Critical Choices*, Ottawa 2000.

<sup>2</sup> The article represents the personal view of the author and should in no way be taken to represent the official view of any institution for which she works or with which she is associated.

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