

A UNITED NATIONS ENVIRONMENT ORGANIZATION

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Introduction¹

Following the 58th session of the General Assembly, the Member States of the European Union (EU) made a proposal to upgrade the United Nations Environment Programme (UNEP) to a UN Environment Organization (UNEO). According to this proposal, as it has been developed over the past few years, a UNEO would build on the current UNEP, continue to be located in Nairobi and would have more stable funding. The proposal - as formally adopted by the EU Council of Environment Ministers in June 2005 - underlines that the strengthening of International Environmental Governance (IEG) must take into account ongoing UN reform efforts and the recommendations adopted in UNEP's Cartagena process (see Appendix V).²

At UNEP's Governing Council meeting of February 2007, the EU reiterated this position and called for "a significant strengthening of UNEP, along the lines sketched out in Cartagena as well as in the recent announcements of the Executive Director, which will help UNEP to become more effective in catalyzing action to address major environmental threats."³ In addition, the EU reaffirmed "the importance of the Cartagena agreement and the need to implement all its elements in a coherent manner: universal membership, implementation of the Bali Strategic Plan, strengthening the scientific and the financial base of UNEP, coordination with multilateral environmental agreements, and enhanced coordination across the UN system." On this occasion, the EU also welcomed the recent efforts of UNEP and UNDP for improved co-operation between their organizations. As the EU believes that

strengthening UNEP alone will not be sufficient to cope with the challenges ahead, the EU underlined its firm belief “that an upgrade of UNEP into a UNEO, with stable, adequate and predictable resources and with the appropriate international standing, would enable the organization to fully fulfill its mandate and to live up to the expectations of developed and developing countries.”

The EU and other proponents have argued that a UNEO would be an essential tool to increase the political clout of environmental policies in the UN and beyond, with the ultimate goal of achieving sufficient political will to effectively address the globe’s environmental problems. The EU has argued that a UNEO could accelerate the process of mainstreaming environmental issues into the UN system.⁴ Proponents have also argued that a UNEO is not meant to introduce a new bureaucratic layer, entailing additional reporting and funding obligations, but rather to provide an umbrella institution built on UNEP with more political weight due to its normative upgrade to a Specialized Agency.

This chapter intends to describe the most relevant aspects of a UNEO. For this purpose, the article outlines the main arguments of the proponents of a UNEO, in particular the stance of the EU, the most visible supporter of the idea. But to place the issue of establishing a UNEO in the broader political picture, we will start out with a brief summary of the most relevant initiatives in the context of the on-going UN reform process. After outlining of the key features a UNEO would have according to current discussions, the chapter will highlight the main potential differences between UNEP and a UNEO. In conclusion, the chapter will present the arguments for and against the upgrade of UNEP to a UNEO. The chapter will make reference to the World Health Organization where required, since proponents have recently proposed modeling a UNEO on this Specialized Agency.⁵

Reforming the UN - the Broader Political Context

The creation of a UNEO needs to be addressed in the wider context of reforming the structure of the UN in general and the system of international environmental governance in particular. Although there are many reform initiatives relevant for the creation of a UNEO, particularly important reference points in the debate include:

- In November 2006, the Secretary-General’s High-level Panel on UN System-wide Coherence in the Areas of Development, Humanitarian Assistance, and the Environment recommended

that “UNEP should be *upgraded* and have real authority as the environmental policy pillar of the UN system”.⁶

- The 2005 UN World Summit recognized the need for more efficient environmental activities in the United Nations system. The summit also acknowledged “the need for enhanced co-ordination, improved policy advice and guidance, strengthened scientific knowledge, assessment and co-operation, better treaty compliance, while respecting the legal autonomy of the treaties, and better integration of environmental activities in the broader sustainable development framework at the operational level, including through capacity-building.” Against this backdrop, it was agreed “to explore the possibility of a more coherent institutional framework to address this need, including a more integrated structure, building on existing institutions and internationally agreed instruments, as well as the treaty bodies and the specialized agencies.”⁷
- General Assembly resolution 53/242 of 28 July 1999 established the Global Ministerial Environment Forum (GMEF) as an annual, ministerial-level forum assigned with providing political leadership within UNEP. Additionally, UNEP’s Cartagena process (see Appendix V) on strengthening IEG has helped produce various improvements, such as the indicative scale for funding UNEP and the Bali Strategic Plan for Technology Support and Capacity Building (see Appendix VI). The Cartagena process also underlined the importance of the UN Environmental Management Group (EMG), which the UN Secretary-General established in 1999 to bring the environment into the mainstream of UN system activities and to improve policy co-ordination across the environmental activities of the UN system as well as the Bretton Woods institutions and the World Trade Organization (WTO).

Accordingly, in general terms, the need to reform the system of international environmental governance and to “explore the possibility of a more coherent institutional framework” has been acknowledged at the highest political levels. Although high-level support for reforming the system of international environmental governance exists, the option of creating a UNEO – as proposed by the EU – has not been discussed in detail at this level. However, the call of the Secretary-General’s High-level Panel on UN System-wide Coherence to “upgrade” UNEP has been interpreted as support for the EU stance⁸ since the term “upgrade” is

understood as the diplomatic synonym for creating a Specialized Agency in the field of environment on the basis of UNEP.

Core Features of a UNEO

It is clear that most features of a UNEO are not yet fully established since the creation of such a Specialized Agency would be subject to international negotiations. However, some features have emerged in recent years as likely elements of a UNEO. Some have been reiterated by its early proponents, others stem from the fact that a UNEO is intended to have the status of a Specialized Agency under article 57 of the UN Charter.

Legal Basis: UNEO as a Specialized Agency

Most importantly, a UNEO is envisaged to have the status of a UN Specialized Agency. Accordingly, and in line with Article 57 of the UN Charter, a UNEO would be established on the basis of an intergovernmental agreement which would provide for the basic provisions of the organization. This founding agreement – while open to all UN members – would not require the consent of all UN members. Consequently, membership in a UNEO and the UN could differ. Similar to other existing specialized agencies, the terminology of a UNEO founding agreement could vary (charter, constitution etc.) but would serve the same purpose, that is to provide the legal foundation of the agency as a genuine international organization with legal personality.

Except for the specific requirements of the UN Charter, States are in principle free to negotiate the content of such an agreement. As one of the relevant legal requirements of the UN Charter, Article 57 determines that specialized agencies have “wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields.” It is agreed that this provision would bar the establishment of a Specialized Agency in “non-related fields” such as defense. However, while there is no explicit mentioning of environmental policies, it is clear that Article 57 would not conflict with the establishment of a UNEO. It is well established that environmental policy is among the fields related to economic, social, and health policy. The wording of Article 57 also implies that a UNEO would be a global institution with “wide international responsibilities.”⁹

In line with Articles 57 and 63 of the UN Charter, the Economic and Social Council (ECOSOC) may enter into an agreement with a Specialized Agency. This agreement defines the relationship between a Specialized

Agency and the United Nations and is subject to approval by the General Assembly (GA). Under these agreements, specialized agencies provide regular reports to ECOSOC, including reports on steps they have taken to implement resolutions and recommendations of ECOSOC and the GA. In addition, Articles 63 and 64 of the UN Charter determine that “ECOSOC may co-ordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.” However, while these provisions may imply a decisive degree of influence of ECOSOC over the specialized agencies, the political day-to-day practice is different. In practice, existing specialized agencies enjoy budgetary autonomy and are generally free to determine most details of their programming. As to budgetary autonomy, examination of the budget of a Specialized Agency is confined to a broad review of major characteristics,¹⁰ although Article 17 might suggest more extensive budgetary control of the General Assembly (see below).¹¹ In addition, neither ECOSOC nor the General Assembly are entitled to issue binding decisions in regard to the specialized agencies but may only adopt recommendations, adding to the limited influence of these organs over the programmatic activities of the specialized agencies.¹² In sum, existing specialized agencies enjoy a high degree of autonomy, an arrangement which is owed to the decentralized structure of the UN. Regardless of this degree of autonomy, a UNEO would work within the UN system, in contrast to some previous calls for the creation of a World Environment Organization, whose institutional relationship to the UN has never been fully explained by many of its proponents.

UNEO: Institutional Design

Despite small differences, specialized agencies have very similar institutional set-ups (i.e. institutional patterns). They each have a plenary and executive organ as well as a secretariat, headed by a senior official.

Plenary Organ

All UN specialized agencies have a plenary organ that provides overarching political guidance, approves the budget, and the work programme. Although this structure is standard for all specialized agencies, the details of the plenary organ’s mandate leave room for Member States’ choice. Plenary organs are in principle only composed of government representatives from the agency’s Member States but observer status in the Plenary Body is usually provided to all members of

the UN. However, the plenary organs of specialized agencies differ from each other in some relevant details. Although no model for a UNEO, the General Conference of the ILO, for example, is unique in that it is composed of State, employer and employee representatives, with each representative entitled to vote individually. State delegations to the General Conference of the ILO are composed of four representatives: two State as well as one employer and one employee representative.

The mandate of plenary organs differ in that they are generally tailored to specific needs of the agency and are particularly shaped by the specific political circumstance of the negotiations of the founding document. Supporters of a UNEO have suggested that UNEO's plenary organ should, among other terms, elect the members of the executive organ, appoint the Director General and approve the budget and work programme, possibly to be proposed by the Executive organ. Plenary organs meet annually or with even longer time spans in between sessions.

Many agencies grant other stakeholders observer status. In the case of a UNEO, it would be indispensable to grant MEAs such a status, including the right to take the floor during sessions, possibly under the same conditions as Member States. Ultimately the status of MEAs would differ from the status of Member States only in respect to voting rights. Next to MEAs, other UN entities, international organizations and representatives of civil society could have observer status. Participation of a wide range of observers would allow for input across the UN system, underlining the role of the plenary organ as the central environmental policy fora within the UN.

Executive Organ

UN specialized agencies usually have an executive organ, which ensures that the agency carries out its operative work and adheres to its budget. In some cases, decisions of the executive board are binding, and in other cases decisions require approval of the plenary body. This organ consists of a limited number of members appointed or elected for a specific term on a rotating basis. Rules on membership are usually drawn up to ensure geographically equitable representation. Members of the executive organ represent countries; in some cases they act on a trust basis for the entire organization (e.g. UNESCO or UPU).

The mandate and composition of an executive organ leave a wide range of options for the founding states. UNEO's Executive Organ could be empowered to ensure the implementation of policy guidelines adopted by the plenary organ. The Executive Organ could be entitled to prepare

the budget and work programme of the UNEO. Its mandate could provide for supervision of budgets.

Secretariat

While a Secretariat functions as the focal point for all the agency's activities, its specific tasks vary considerably in detail. The agency's Secretariat is usually headed by a chief official, who is nominated, appointed and/or elected by the plenary organ, executive organ or UN Secretary General, providing for different degrees of influence of the electing entity over the agency's activities. The different appointment or election procedures can be linked to different levels of political leverage of the chief official in political debates.

Decision-making process

Generally, each Member State of a Specialized Agency has one vote. Decisions are often taken by majority; other options provide for double weighted decisions. Accordingly, decisions would be adopted by a specified majority of the members, including the simple majority of a specific country group such as developing and developed countries. These different options could apply to UNEO's plenary body as well as the executive body. However, the decision-making process should ensure legitimacy and ownership of the institution's dealings by providing for full and equal participation by all Member States. Supporters of a UNEO, notably the EU, have argued along these lines and called for the application of the one-state-one-vote principle.

UNEO: Mandate and Functions

Since States are in principle free to negotiate the content of the founding agreement of the Specialized Agency, States can choose from a wide range of options for the mandate and functions of a UNEO. Because it will be subject to future negotiations, it is obviously premature to anticipate the exact scope of the mandate. It is very likely, however, that the UNEO's mandate will derive from UNEP's mandate. It is generally assumed that a UNEO would be an umbrella organization¹³ and would – as a decentralized institution – respect the independence of MEAs. It has been argued that a UNEO should help to systematically pool the scientific knowledge on environmental issues and help to define global environmental strategic guidelines to promote coordination and synergies.

However, since there seems to be agreement that a UNEO - unlike other international bodies - would not have enforcement authority, it is

clear from the outset that a UNEO would not be vested with the competency to adjudicate environmental disputes. In this respect, it would essentially differ from the World Trade Organization. There is apparently also consensus that the individual legal relationships between existing MEAs and the UNEO would essentially be the same as MEAs currently have with UNEP. Consequently, there is no discussion that a UNEO would be entitled to *adopt* legally binding decisions which Member States would be obliged to transpose in national legislation. This arrangement would be in line with present practice. While various specialized agencies are empowered to draft legally binding international agreements, e.g. ICAO, WHO, WMO, IMO or ILO, there is no Specialized Agency entitled to adopt legally binding resolutions. This practice underlines the function of specialized agencies to serve primarily as fora of co-ordination rather than a platform for decision-making.

UNEO: Funding

Like other specialized agencies, a UNEO would probably require a budget primarily based on assessed contributions, i.e. Member States would have a legal obligation to pay an agreed contribution. The budget contributions of specialized agencies are generally not directly linked to the UN budget, thereby giving the agencies the ability to differ from the UN assessment scale. Although Article 17.3 of the UN Charter foresees that the General Assembly “examines the administrative budgets of specialized agencies with a view to making recommendations to the agencies concerned,” it is general practice that the budget of specialized agencies is in principle independent from the UN budget. Consequently, calculation of mandatory contributions is based on various formulae, although many UN specialized agencies base their contributions on the UN scale for the regular budget. Voluntary contributions could also be additional sources of UNEO’s funding.

With regard to expenditures, assessed contributions could cover the operating budget, with special voluntary contributions being granted for specific projects. Although the exact share of assessed contribution is subject to future negotiations, it is intended that UNEO’s expenditures would primarily be borne by assessed contributions, making UNEO less dependent on voluntary and earmarked funding than UNEP currently is. Proponents of a UNEO have argued that the agency’s potential budget arrangement would not entail a new bureaucracy as it would not change UNEP’s current budget administration significantly.

World Health Organization: Main Features

Given the proposal to model a UNEO on the WHO,¹⁴ this box briefly highlights the main relevant features of this agency. Although the institutional set-up of the WHO mirrors the standard pattern of other specialized agencies, it has some unique features that become significant when embarking on more detailed discussions or even negotiations for a UNEO. Obviously, a UNEO would not be a pure copy of WHO, but some elements might serve as good models, as stated in the *Paris Call for Action* (see Appendix III).

The institutions of the WHO are:

- The World Health Assembly, as the plenary organ, is composed of all its Member States and tasked to approve and review its programme and budget. The World Health Assembly also appoints the Director General, on the nomination of the Executive Board, and considers reports from the Executive Board for further instructions. It has the authority to adopt conventions and agreements with a 2/3 majority, which enter into force in accordance with the ratification procedures established by its Member States. It is also empowered to adopt binding regulations in regard to certain health issues, which become binding after due notice has been given, unless a Member State notifies the Director General of its rejection or reservation within a certain time period (contracting out).
- An Executive Board composed of 34 technically qualified state representatives, elected for a term of three years. The Board prepares the Assembly's agenda and forwards resolutions to the Assembly for decision. The Board is also tasked to supervise the implementation of the decisions of the Assembly.
- A Secretariat, headed by the Director General, providing the standard secretarial functions.

Concerning the agency's budget, Article 55 of the WHO Constitution stipulates that the Director-General prepares the budget estimates which are submitted to the Executive Board for consideration after which the Board forwards the estimates to the Assembly. The Assembly approves the budget – subject to any agreement with the UN – and apportions the expenses among the Members in accordance with a scale fixed by the Assembly (Article 56 of the Constitution).

What are the differences between a UNEO and UNEP?

From the outset of the discussions on establishing a UNEO, it has been a given that a UNEO would be based on UNEP as its predecessor. Proponents of a UNEO have consequently called for an upgrade of UNEP to a Specialized Agency, widely perceived as the diplomatic acronym for establishing a UNEO. Upgrading UNEP to a UNEO implies that the current structure, location and mandate of UNEP will be taken fully into account when embarking on the negotiations for creating a Specialized Agency.

However, while many similarities between these two institutions probably will continue to exist, some differences are likely to emerge when negotiations come to an end. Although it is impossible to predict the details, one major difference will materialize: by definition, a UNEO would be an international organization with legal personality based on an international treaty. It is likely – given the experience of other specialized agencies – that a UNEO would enjoy a degree of autonomy from the UN (see above). UNEP, in contrast, is only a Programme functioning on the basis of General Assembly Resolution 2997 (XXVII) of 1972. It is arguably a subsidiary organ of the UN under Article 22 of the UN Charter.¹⁵ Beyond these evident differences, current discussions hint at other possible differences.

Mandate

According to General Assembly Resolution 2997 (XXVII), the function of UNEP's Governing Council includes, among others, (1) the provision of general policy guidance for the direction and co-ordination of environmental programmes within the United Nations system; promotion of international co-operation in the field of the environment and to recommend, as appropriate, policies to this end; (2) review of the world environmental situation in order to ensure that emerging environmental problems of wide international significance receive appropriate and adequate consideration by Governments; (3) continuing review of the impact of national and international environmental policies and measures on developing countries in the implementation of environmental programmes and projects, and to ensure that such programmes and projects are compatible with the development plans and priorities of those countries.

As we have seen, the details of the mandate of a UNEO would be subject to negotiations. Proponents of a UNEO have generally stressed that the mandate should stem from UNEP's terms of office. However,

they have also called for a stronger co-ordination mandate as outlined above.

Secretariat

According to General Assembly resolution 2997 (XXVII), UNEP's Secretariat serves as the focal point for environmental action and coordination within the UN system to ensure a high degree of effective management. Pursuant to the same resolution, the Executive Director is responsible for coordinating – under the guidance of the Governing Council – environmental programmes within the UN system to keep their implementation under review and to assess their effectiveness. The Executive Director is elected by the General Assembly, following a nomination by the UN Secretary-General.

There has been relatively little discussion on the secretariat of a UNEO, which could imply that only limited changes are envisaged. Similarly, the appointment of the Secretariat's chief official is an open issue with various options being discussed. This includes whether he/she is to be nominated, appointed and/or elected by the Plenary, Executive Organ or UN Secretary General.

Plenary Organ

The Governing Council is UNEP's highest decision-making body, essentially functioning as a plenary organ. UNEP's Governing Council reports to the General Assembly through ECOSOC. The Governing Council has 58 members who are elected by the General Assembly for four-year terms, taking into account the principle of equitable regional representation. Other States participate in the Governing Council as observers. Consequently, only 58 members may vote. In practice, however, the Governing Council has taken decisions by consensus but only after consultations and agreement with the observer states. It has been argued that there has not been a Governing Council decision which has ignored the views of a country. This day-to-day practice has led to universal participation, arguably *de facto* universal membership in the Governing Council.

Pursuant to General Assembly resolution 53/242 of 28 July 1999, the Global Ministerial Environment Forum is convened annually to review important and emerging policy issues in the field of the environment, with the Governing Council constituting the forum either in its regular sessions or special sessions. The creation of an annual summit of environmental ministers has marked progress. It has helped to generate more attention to global environmental issues and to create a stronger ownership of the

UNEP agenda among environmental ministers. Nonetheless, it has failed so far to establish a coherent environmental agenda setting for the overall UN system or to review mechanisms that impact environmental politics.

In contrast, UNEO's plenary body would – as outlined above – have full membership of all member states, providing for full voting rights of all members and avoiding a differentiation in the rights of members. The general system of one-country-one-vote seems to be favored in recent debates. No one is proposing to introduce a majority vote or caucus system, regardless of the benefits of either of these systems for producing clear and concrete decisions. In addition, the plenary body would operate on a more permanent and thus visible platform. It would allow for the establishment of special standing committees to address specific issues.

Depending on its legal basis, UNEO would report to ECOSOC or the General Assembly with important implications for its institutional standing within the UN system. Reporting to the ECOSOC, a very weak player in international environmental policies, would diminish the political clout of environmental policies within the UN system.

Coordination bodies

The Environmental Management Group (EMG) is the key institution for coordinating environmental policies in the UN. The EMG - chaired by the Executive Director of UNEP - aims at enhancing cooperation in the field of environment and human settlements within and beyond the UN system. EMG members (See Appendix I) consist of specialized agencies, funds and programmes of the UN system as well as secretariats of some multilateral environmental agreements (MEAs). To date, the EMG is considered a weak coordinating instrument without any notable record of successfully coordinating activities, nor has it achieved much acceptance among UN bodies. Despite recent calls by UN Member States, notably the EU, to generally strengthen the EMG and UNEP's defined role as chair of the Group, there is no real debate about its future role and function as an important element to be included in on-going environmental governance reform efforts. As discussed above, proponents of a UNEO have viewed this body as the main tool to fill this gap in international environmental governance.

Funding

Apart from a contribution from the United Nations Regular Budget, which accounts biannually for US\$9 million in funding, UNEP is financed by voluntary contributions. Its budget is generally in the area of US\$60-70 million per year (2002: US\$64.04; 2003: US\$70.90, 2005: US\$ 72,00). The

Environment Fund is the main mechanism for financing UNEP activities, consisting of about US\$118 million for the 2004-2005 biennium.¹⁶ In the September 2002, the voluntary indicative scale of contributions was introduced. While the indicative scale has led to a significant widening of voluntary contributions (128 countries pledged contributions in 2003, an increase of 70 % compared to previous years), some major donors decreased their payment under the indicative scale in late 2006, leading to a 12 million shortfall in the US\$ 72 million budget.

In 1991, the Global Environment Facility (GEF) was established by the World Bank, UNEP and the UN Development Programme as the main international financial mechanism for projects and programmes that protect the global environment. Since 1991, the GEF has provided US\$4.5 billion in grants and generated US\$14.5 billion in co-financing from other partners for projects in developing countries and countries with economies in transition. To date, the UNEP GEF portfolio represents the single most capital-intensive trust fund within UNEP. UNEP's cumulative work programme since 1991 to December 2005 was financed by US\$1.1 billion, including \$529 million in GEF resources. Including projects that UNEP co-implements with UNDP and/or the World Bank, UNEP undertook 78 full-size projects and 78 medium-sized projects. Through GEF Enabling Activities related to biodiversity, biosafety, climate change, persistent organic pollutants and capacity building needs assessment for global environmental management, UNEP is assisting 139 countries to meet their obligations under global environmental conventions and build the capacity needed to implement them. UNEP's work programme is implemented in 153 countries.¹⁷

From a governance perspective, the implementation of GEF projects through three different organizations has yielded mixed results generated by recurrent institutional jealousies. Given the sheer importance of GEF funding as part of the environment portfolio for at least UNEP and UNDP, there is a surprising lack of political discussion among governments about the future role of GEF as part of an upgraded UNEP or a UNEO and vis-à-vis the overall environmental institutional structure of the UN system.

Like other specialized agencies, UNEO would probably require a budget largely based on assessed contributions. However, the exact design of the budget is subject to negotiations, and international law does not restrict countries from tailoring the budget to their own needs. Similarly, there are no legal requirements to alter the status of the GEF when upgrading UNEP. However, as described, UNEO proponents have seen

the enhanced coordination potential of this organization as one of the key benefits in responding to the above challenges.

Would a UNEO perform better than UNEP?

While the number of countries in support of a UNEO has grown over the last few years, a number of countries have continued to voice their concerns over its establishment.¹⁸ These countries have argued that a UNEO could favor environmental policies to the detriment of other policies, notably economic development and, thus, poverty eradication. In addition, a UNEO could lead to an organization with enforcement powers, which is generally considered inappropriate in the field of environmental policies, as it does not address the roots of problems, such as the lack of capacity and resources. There are also concerns that a UNEO could require additional funding. Opponents of a UNEO have also argued that the process of strengthening UNEP should be given time to yield results, and that UNEP should only be transformed into a UNEO if a strengthened UNEP fails to improve the system of international environmental governance over the long term.

Partly in response to these concerns, UNEO proponents have made the case that a UNEO would be better equipped to co-ordinate international environmental policies in the UN. As a Specialized Agency, based on an intergovernmental agreement which would be ratified by all its Member States, a UNEO would have greater prominence and greater political clout than UNEP, which is only a programme based on a resolution of the General Assembly. In a similar way in which the transformation of the General Agreement on Tariffs and Trade (GATT) into the WTO resulted in an increased focus and more force behind international trade policies, establishing a UNEO would possibly give rise to more political environmental policy leverage in global policy making.¹⁹ Proponents of a UNEO have also argued that existing institutional jealousies – as referred to also in the High-level Panel on system-wide coherence – have led to a situation that UNEP often remains politically sidelined within the UN system. Partly due to its small financial and personnel basis, but also because of its current institutional status, UNEP in its current form is not able to fulfil its coordinating mandate.

Consequently, proponents believe, a UNEO could act at the same level as other major fora that address economic and social issues and would, thus, be better equipped to provide political guidance and coordination. It is very likely that increased political weight would translate into more agenda-setting and coordination powers with various

benefits for international environmental policies and sustainable development:

- A UNEO's improved agenda-setting and coordination capacities would help integrate environmental policies better into other policy areas, notably poverty eradication and economic development. An enhanced UNEO could better contribute to poverty eradication, as it would be better equipped to bring forward and deal with issues such as renewable energy, energy efficiency, fresh water and sanitation.
- Since UNEP lacks political clout – partly because UNEP cannot adopt treaties or regulations of its own volition –, its potential to attract decision makers to its discussions is limited. A UNEO – in contrast – could help generate high level involvement from all political quarters in international environmental discussions, with great benefits for the integration of environmental concerns into other policy areas.
- As widely agreed, there is a need to strengthen UNEP's scientific base. In this respect, a strengthened UNEO would be better equipped to coordinate research programmes more effectively; attract more qualified scientists and involve researchers from developing countries; encourage multidisciplinary research and generate an overall stronger scientific reputation.
- UNEO's institutional organs could be shaped to allow for greater leverage by developing countries over international environmental policies, addressing the concerns of developing countries that they would have limited participation, with a UNEO's executive body proportionally based on the overall composition of the new organization, thus ensuring that developing countries would have decisive influence over the work of this body.

Proponents have also argued that a UNEO, as a Specialized Agency, could provide for a budget largely based on assessed and thus predictable contributions. This system would considerably improve the current funding of international environmental policy. It would make reliable funding available for cost-intensive activities with particular benefits for developing countries. For example, it could lead to improved and more country specific capacity-building activities resulting in enhanced scientific knowledge and early warning systems for developing countries, which generally lack early warning capacities. With its enhanced coordination

powers, a UNEO could arguably help rationalize the financing of international environmental policies through strategic guidelines, as well as encourage pooling of cross-sectoral MEA activities. Through its increased political leverage, a UNEO could also help trim and simplify reporting needs and formats. Reduced reporting requirements would also free up scarce resources for other uses. Proponents have also argued that a UNEO plenary body would enable all UN members to set environmental priorities jointly and to define a comprehensive budget based on these priorities. A strong UNEO would be much better at raising additional resources with the relevant UN institutions, the World Bank and private funding for environment than UNEP with its weak institutional status has been.

Current State of the Debate on a UNEO

Following the 2005 summit, Jan Eliasson, the Swedish President of the 60th session of the UN General Assembly (GA), proposed informal consultations on IEG, co-chaired by Ambassador Enrique Berruga of Mexico and Ambassador Peter Maurer of Switzerland. These informal consultations were launched in early 2006 (see Berruga and Maurer in this volume). At the request of the current GA President, Sheikha Haya Rashed Al Khalifa, the informal consultations have resumed in 2007 with the Co-Chairs presently working on an *Options Paper*.

With regard to the creation of a UNEO, the main outcome of the first round was general agreement that the current environmental system is fragmented and lacks coherence. There was also wide recognition that efforts to create a more coherent institutional framework for the UN's environmental activities should start by strengthening and building upon existing structures and better implementing past agreements. Some delegations claimed that these steps would be sufficient. Other delegations expressed doubts that the challenges can be met within the present institutional framework and are, therefore, asking for more fundamental institutional changes. The recent UNEP GMEF environmental ministers' debate on UN reform yielded similar differing views, but concluded with an overall consensus for the need of a strengthened UNEP.²⁰

Following the Conference Citizens of the Earth, a "Group of Friends of the UNEO" (See Appendix II) was created which has – as of February 2007 - gathered over 50 countries.²¹ The group will, inter alia, "take action to strengthen and transform UNEP into a UNEO, in the context of UN reform." Morocco has proposed to host the first meeting of this group.

Notes

- ¹ The opinions expressed in this chapter do not necessarily reflect official positions of Ecologic. The authors wish to thank Henrike Peichert from Ecologic for her most useful comments and contributions.
- ² EU Council meeting of Environment Ministers of 17 June 2005. Most recently, the EU laid out this agreed policy position on how to strengthen UNEP in various EU Plenary Statements, including its opening statement, at the 10th UNEP Governance Council, 5-9 February 2007, Nairobi.
- ³ EU Presidency Speaking Points on Item 4 (e) - International Environmental Governance: 24th Session of the Governing Council/Global Ministerial Forum of UNEP, 5 – 9 February 2007, Nairobi.
- ⁴ EU Presidency Speaking Points on Item 4 (e) - United Nations Reform: 24th Session of the Governing Council/Global Ministerial Forum of UNEP, 5 – 9 February 2007, Nairobi.
- ⁵ The “Citizens of the Earth” Conference for Global Ecological Governance on 2 February 2007.
- ⁶ Secretary-General’s High-level Panel on UN System-wide Coherence in the Areas of Development, Humanitarian Assistance, and the Environment, “Delivering as one”, A/61/583, 20 November 2006.
- ⁷ UN General Assembly, “World Summit Outcome Document,” A/RES/60/1, 24 October 2005.
- ⁸ EU Presidency Speaking Points on Item 4 (e) - International Environmental Governance: 24th Session of the Governing Council/Global Ministerial Forum of UNEP, 5 – 9 February 2007, Nairobi.
- ⁹ Bruno Simma, *The Charter of the United Nations: A Commentary*, Oxford Univ. Press (2002): 743; refer also to Nils Meyer-Ohlendorf and Markus Knigge, “Specific Needs of Developing Countries - Design Option for a UNEO,” Institute for International European Environmental Policy, January 2005. Available at: <http://www.ecologic.de/modules.php?name=News&file=article&sid=1297>.
- ¹⁰ Simma 2002: 352.
- ¹¹ Article 17 of the UN Charter stipulates that the General Assembly shall consider and approve any financial and budgetary arrangements with specialized agencies referred to in Article 57 and shall examine the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned.
- ¹² In this context, it is noteworthy that the leverage of the General Assembly over the specialised agencies is far greater than ECOSOC’s influence, which has continued to diminish over time. Simma 2002: 1008.
- ¹³ Richard G. Tarasofsky and Alison L. Hoare, “Implications of a UNEO for the Global Architecture of the International environmental Governance System,” IDDRI, Paris, 2004; Adil Najam, Mihaela Papa and Nadaa Tayab, *Global Environmental Governance. A Reform Agenda*, IISD, 2006. Available at: www.iisd.org/pdf/2006/geg.pdf.
- ¹⁴ The “Citizens of the Earth” Conference for Global Ecological Governance on 2 February 2007.
- ¹⁵ Ignaz Seidl-Hohenveldern and Gerhard Loibl, *Das Recht der Internationalen Organisationen*, 7th edition, 2000, No 814a.
- ¹⁶ See http://www.unep.org/AnnualReport/2005/Annual_Report18_Annexes.pdf.
- ¹⁷ UNEP in the Global Environment Facility, Annual Report 2005.

¹⁸ See also Nils Meyer-Ohlendorf, “Would a United Nations Environment Organization Help to Achieve the Millennium Development Goals?” *Reciel*, Vol. 15 (2006): 23-29. <http://www.ecologic.de/modules.php?name=News&file=article&sid=1760>.

¹⁹ Note that – as outlined above – proponents have explicitly made the case that a UNEO would not be modelled on the WTO.

²⁰ President’s summary of the discussions by ministers and heads of delegation at the twenty-fourth session of the Governing Council/Global Ministerial Environment Forum of the United Nations Environment Programme, UNEP/C/24/L.5.

²¹ The “Citizens of the Earth” Conference for Global Ecological Governance on 2 February 2007.