

IGES Policy Report-2011-04

# Strengthening international environmental governance by two-phased reform of UNEP: Analysis of benefits and drawbacks



Governance and Capacity Group, Institute for Global Environmental Strategies (IGES)



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**STRENGTHENING INTERNATIONAL ENVIRONMENTAL  
GOVERNANCE BY TWO-PHASED REFORM OF UNEP:  
ANALYSIS OF BENEFITS AND DRAWBACKS**

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## **Strengthening International Environmental Governance by Two-phased Reform of UNEP: Analysis of Benefits and Drawbacks**

IGES Policy Report

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## ACRONYMS AND ABBREVIATIONS

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ASEAN	Association of Southeast Asian Nations
CBD	Convention on Biodiversity
CM	Council of Ministers
COP	Conference of the Parties
COW	Committee of the Whole
CPR	Committee of Permanent Representatives
ECOSOC	Economic and Social Council
EMG	Environment Management Group
EU	European Union
GA	General Assembly
GEF	Global Environmental Facility
GHG	Greenhouse gases
GEGC	Global Environmental Governing Council
GC/GMEF	Governing Council/Global Ministerial Environment Forum
IEG	International Environmental Governance
ILO	International Labour Organization
LDC	Least developed country
MEA	Multilateral Environmental Agreement
MoU	Memorandum of Understanding
SWMTEP	System-wide Medium Term Environment Programme
TEMM	Tripartite Environment Ministers Meeting
UM	Universal Membership
UNEO	UN Environment Organization
UNEP	UN Environment Programme
WEO	World Environment Organization
WHO	World Health Organization
WMO	World Meteorological Organisation
WTO	World Trade Organisation

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### **Disclaimer**

Although this work provides recommendations for international environmental governance, the views and opinions contained within are those of the author alone, and in no way does it imply the endorsement or acquiescence of the Ministry of Environment or any other government agency in Japan.



## ABSTRACT

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This paper aims to contribute to the debate on strengthening international environmental governance (IEG) architecture towards more effectively promoting environmental sustainability. To this end, the paper will analyse two broad reform options: 1) introducing universal membership of UNEP's Governing Council, and 2) elevating the status of UNEP to a specialized agency. The paper will analyze the broad reform options by focusing on their legal, financial and structural implications as well as on potential benefits and drawbacks of each option. In addition to these broad reform options, the paper acknowledges the importance of incremental reform of environmental governance that is taking place to enhance efficiency of environment work within the United Nations (UN) and on national levels. While these incremental improvements are valuable, the paper argues broader reform of IEG and UNEP in particular will be necessary to improve environmental governance, as stronger legal clout is ultimately necessary to arrive at more effective environmental governance architecture. Proposing broader reform, the paper argues that the two summarized IEG reform options should be implemented in a phased approach, and that benefits of broader reform would accrue not only to international environmental policy making, but also strengthen the role of environmental *vis-à-vis* economic policy making on national and local levels. Thus, the paper recommends that countries' and citizens' support the broad IEG reform options for the benefit of both international and national environmental governance.

## 1. INTRODUCTION: DEFINING THE SCOPE OF THE PAPER

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Many countries are making progress addressing their environmental problems, but it is unlikely that a purely nation-state approach will suffice in addressing the international and global dimensions of environmental issues. At the same time, however, the current international governance architecture that has emerged over the last four decades is disjointed and inefficient and therefore unable to function effectively. As a result, environmental legislation remains notoriously weak. Stronger international environmental governance (IEG) architecture is necessary to safeguard the international and national environment and ensure that human well-being does not suffer from environmental degradation.

IEG refers to the international mechanisms, institutions and stakeholders that manage environmental challenges. The concept is related to how environmental issues reach the political agenda, how policies are formulated, and how programmes are implemented (IGES 2006). To match the limited scope of this paper, IEG will be defined as governance in context of the United Nations and particularly its relation to reform of the United Nations Environment Programme (UNEP). It should be pointed out that IEG is undertaken by a multitude of actors, and even though its role looks to be primarily international, bolstering it on the intergovernmental level would possibly benefit both national and local environmental decision-making.

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### 1.1 IEG REFORM AND MULTILEVEL RELEVANCE

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While much of the IEG debate has taken place in the intergovernmental arena, vertical linkages must be made to the realities on domestic implementation level. For example it should be emphasized that stronger legal and financial capacity of the IEG architecture will have multilevel benefits. Neglecting the impact on national level will make little sense, as decision makers, who represent their nation states, will not recognise the relevance and interest in supporting IEG. IEG reform should therefore be analysed for the potential contributions to national level policy making.

Apart from the need for vertical integration to enable to downstream flow of benefits from the international to the national and local levels, environmental policymaking can be bolstered by horizontal integration. This can happen by uniting ministries, as for example the ministry of ecology, sustainable development, transport, and housing in France. Germany introduced green cabinets, which improved the agenda setting capacity of its environmental ministry (Lenschow 2009:102). Sweden and the Netherlands have experimented with green reviews of national budgets (*Ibid.*:75). Above and beyond national levels it has also been possible to strengthen environmental legislation. For example the Treaty establishing the European Union (EU) states that environmental protection, "...requirements must be integrated into the definition and implementation of the Community policies" (EU1997).

These tools and processes exemplify how national level environmental policy making has been strengthened to allow environmental concerns to gain more influence compared to traditional economic policy making. While these examples are inspirational and encourage reproduction in other contexts, the strengthening will continue ad-hoc and in a haphazard fashion as long as the main agenda setter on the international level remains weak. The paper will therefore emphasize

that strengthening UNEP by altering its legal, structural and financial composition would realize considerable scope for improving effectiveness of multilevel environmental governance.

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## 1.2 WHY BROADER REFORM IS NEEDED AND WHY IT WOULD MATTER

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IEG needs to be strengthened not only because of the emerging environmental problems faced by multiple countries, but also to allow environmental decision-making to better match economic decision-making. Before examining the details of that argument in the context of UNEP, it will be necessary to provide a brief overview of some of UNEP's inbuilt shortcomings. UNEP was founded in 1973 with a broad mandate establishing it as the designated authority of the United Nations system in environmental issues at the global and regional level (UNEP 2011). However, it was never given autonomous decision-making power, and with the global increase of environmental issues, the lack of legal independence and funding has proven detrimental for its ability to successfully address environmental challenges. Earlier research (WRI 2002; Ivanova 2010; Biermann and Bauer 2007) establishes a number of reasons to the mixed successes of UNEP, which – among other factors - emphasize limited authority and funding as main reasons for UNEP's weakness.

The lack of centralized authority on IEG has resulted in the current fragmented environmental governance architecture. As could be observed over the last four decades, the gradually emerging environmental challenges have resulted in an impressive web of multilateral environmental agreements (MEAs) and programmes both within and outside of the UN's purview. It has been established (Kanie 2007, Najam *et al.* 2006) that there currently are well over 500 such MEAs. Many of them overlap, and governments, especially those with limited financial and human capacity, are severely challenged with their administration (ECOLOGIC 2004). Thus, the decentralized decision-making regarding these agreements can be said to be one detrimental characteristic of the currently fragmented IEG regime. In response to that fragmentation, the section on universal membership (see below) will argue that universal membership of UNEP GC/GMEF has the potential to address the issue.

Universal membership could centralize decision-making, which would resemble a significant efficiency and effectiveness improvement of IEG. However, the paper will argue that establishing universal membership is not an end in itself, but a strategic step towards strengthening IEG. The paper argues that a universally representative forum of environment ministers begs the subsequent provision of autonomous decision-making authority. Equipping environment ministers at the GC/GMEF with such authority would enable stronger international environmental policy making. This benefit can be assumed not only because of the purely environmental mandate and specialization of the GC/GMEF, but also in comparison to the current situation it would be an advantage for IEG. Currently, environmental proposals are always at risk of being sidelined in the United Nations General Assembly (GA), where decisions from the GC/GMEF have to be approved.

Finally, it must be emphasized that IEG reform must be approached with a view to make a change to some of the above-mentioned weaknesses. It would make little sense for example to increase the authority of UNEP without matching funding to enable the institution to address the environmental issues. The sections below will address the issues of decision-making as well as funding.

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### 1.3 CHRONOLOGY OF THE IEG DEBATE

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The debate on environmental governance goes as far back as the Stockholm Conference on Human Environment in 1972, which resulted in the creation of UNEP. Twenty years later, the Rio Summit gave birth to the Commission for Sustainable Development (CSD), with a broader mandate on sustainable development, tasked to oversee progress of Agenda 21. Later on, the UN established a Task Force on Environment and Human Settlements, which found gaps in the IEG system. To improve coordination, the Environment Management Group (EMG) and the Global Ministerial Environment Forum (GMEF) were created, the latter as a bi-annual forum to take place with the UNEP Governing Council. In the first years after the millennium, European and French initiatives attempted in vain to create sufficient momentum for the establishment of a World Environment Organization (WEO). Subsequently, the UN itself established a High Level Panel on System-wide Coherence, which articulated 'Delivering as One' as a priority undertaking to improve coherence and coordination within the UN system (UN 2006). Two internal assessment reports of the Joint Inspection Unit (JIU) followed in 2008, and 2010, respectively, making concrete recommendations towards UNEP reform (Inomata 2008). The debate also went to the General Assembly, which resulted in a draft paper on options for strengthening IEG, however this never led to a Resolution, and in 2009, the GA tabled the issue due to lack of consensus. Although there was consensus on the overall need for stronger IEG, the way forward was still out of reach for agreement in the GA. In 2009, the GC/GMEF revived the process by establishing a consultative group of ministers of high-level representatives, who were tasked with identifying options for strengthening IEG. Late in 2010, the group presented the *Nairobi-Helsinki Outcome* on the options for reform (UNEP/GC.26/L.4/Add.1 2011). The recommendations were subsequently debated in UNEP's 26<sup>th</sup> Governing Council in February 2011, which brought overall agreement on the options, but lacked consensus on which of them should be taken to strengthen IEG. It is now hoped that the occasion of Rio20 could serve as a platform for countries to make headway on the issue.

Research on the issue has brought a large number of analysis of the situation and proposals for a way forward. They can be classified as ranging from 1) those that support broader reform (Biermann 2007 and 2011; Biermann and Bauer 2004 and 2005,); 2) those that debate whether reform would benefit the delivery of governance on the ground (Ivanova 2011; Tarasofsky 2002 and 2003) those that believe that incremental changes are the best, ranging from extending membership of the UNEP GC/GMEF to universality (Tarasofsky 2002), or the most realistic (Najam, Moltke, and Adil Najam, Tarasofsky 2002), given the lack of commitment to broader reform from governments at large. The research of this paper leans on the existing body of work on IEG in the way that it does not dispute the utility of incremental reforms, however it takes vantage point in assuming the feasibility of the most ambitious of the existing research proposals, if they could be carried out in the right sequence, as illustrated in subsequent sections.

## 1.4 THE REFORM OPTIONS

The introductory section above established that there are shortcomings to the current IEG architecture and that reform is needed. However, several details have to be clarified to determine the actual steps that the international community needs to take to realise a stronger IEG architecture. Addressing demand for such information, the paper will argue for the feasibility of two options: a) introducing universal membership (UM) of UNEP's Governing Council/Global Ministerial Environment Forum (GC/GMEF); and b) establishing a specialized agency on environment. The paper will highlight both benefits and drawbacks of these options, as providing more information on the implications can garner more support for strengthening IEG. In addition to providing information on the feasibility of these options, the paper will argue that a phased approach of introducing the legal and structural changes would be the most successful. The sequence in which the reform options could be introduced is depicted in the figure below, essentially arguing that incremental reforms, as ongoing, are fundamental to broader reform, where universal membership of UNEP GC/GMEF represents the initial step, and the creation of a specialized agency, the second step. Of course this kind of contextual sequence is artificial and begs the question as to how precisely such institutional upgrading would benefit environmental governance at multiple levels. To answer this, the subsequent chapters will examine each reform option, and propose a structure on implementation levels as well.<sup>1</sup>

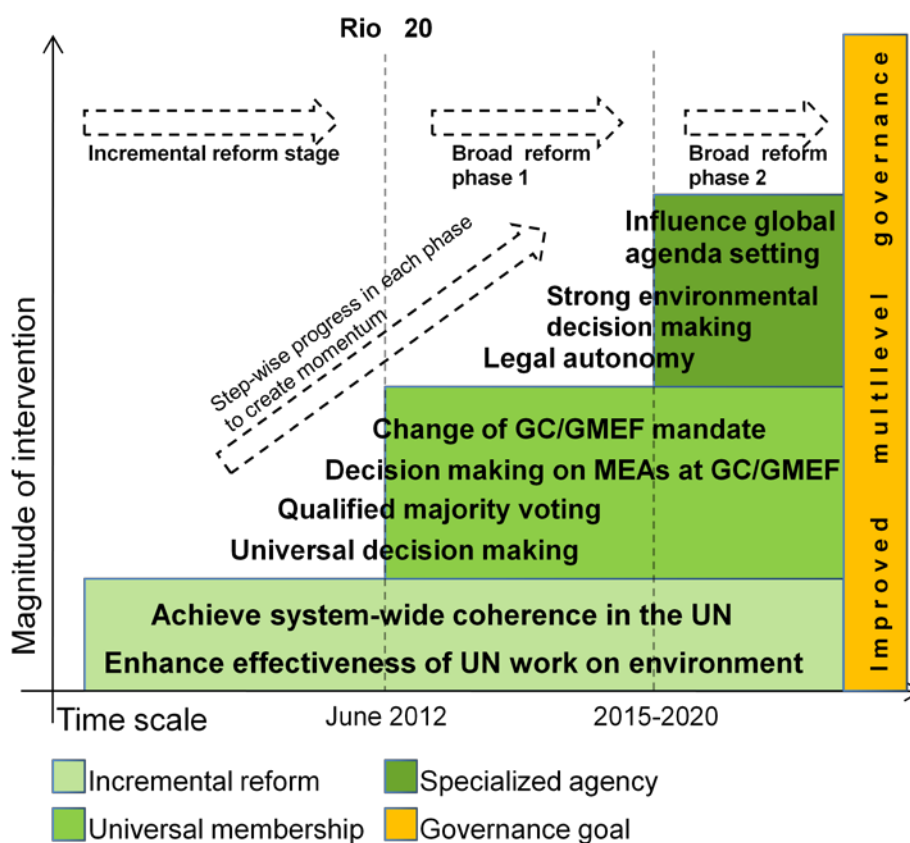


Figure 1: Thrust of IEG Reform

Source: Authors interpretation

<sup>1</sup> See Figure 4 "Cooperation on implementation levels" on page 23.

Apart from the broad reform options, there are other areas that need strengthening, both within the UN and outside of the UN's regime, and particularly on national and local levels. Incremental reform options to IEG in a UN context are often supported by UN member states. The incremental changes can be immediately implemented within UNEP's current mandate and within the UN system. For example, the recent report of the UN Joint Inspection Unit (JIU) has made a series of recommendations that fall into the 'incremental category' (JIU 2008 and 2010). These are mainly focused on improving effectiveness within the UN system.

Many improvements can be introduced that can benefit effectiveness of environmental governance and efficiency of overall UN response, including the "One-UN Initiative", which aims to bring more coherence into UN response at all levels. The incremental reform options are certainly important, because their implementation may determine the level of subsequent support to broader reform. In addition, they can be implemented under the current institutional settings. However, if environmental governance is supposed to be strengthened in earnest, incremental options will not suffice. Broader reform is necessary to equip UNEP with the authority and budget to better carry out the tasks related to environmental governance.

The need for better institutional infrastructure to respond to current and emerging challenges can be seen in another significant anthropogenic effect, namely climate change, whose abatement is arguably one of the most important global concerns. There is significant global agreement that greenhouse gases (GHGs) have to be drastically reduced by the middle of this century, but the details and sources of mitigation are still cause for much disagreement among countries. Nevertheless, it can safely be assumed that the current business-as-usual will not effectuate the needed reduction in GHGs, and that a socio-economic transformation, aided by effective and strong institutional architecture will be necessary.

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## 1.5 THE ARGUMENTS

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The last decades have given birth to a wide variety of actors and institutions in the environmental governance field. This has happened as a result of growing demand for research, capacity building on implementation, multi-level governance, monitoring, reporting and information sharing, and participation to name but a few. The various areas as well as their cross-cutting nature makes it clear that many actors, not one, will be necessary to answer to the demands for stronger environmental governance. Acknowledging this multi-stakeholder aspect of the discussion on improving environmental governance, the paper will approach the IEG discussion in the context of the United Nations, its reform and what IEG reform could mean for UNEP (GA 2010). The paper will focus on the financial, legal, and structural implications of the options and will assess their feasibility and potential benefits and drawbacks.

The paper will argue that the creation of universal membership of the Governing Council (option a) may be necessary to create the appropriate forum for examining other more broad reform options, including the option of elevating UNEP to a specialized agency for the environment (option b). It is important to remember that the discussion on a specialized agency has been addressed in the Governing Council before. At the same time, a proposal for universal membership has also been submitted to the UN Economic and Social Council (ECOSOC) for approval at the UN GA in the past. But neither proposal succeeded in achieving ratification.



For one, this hints that ECOSOC and the GA may not be appropriate forums for decision-making on environmental governance, and secondly, that another forum could be better suited for this debate. ECOSOC's mandate may be too broad and the GA too preoccupied with other issues. Additionally, proposals to strengthen environmental governance may have been met with scepticism because decision makers there have viewed the proposed measures for strengthening environmental governance as potentially compromising political and economic issues that are primarily dealt with in these larger decision-making forums.

The lack of attention can be appreciated, as ECOSOC "...serves as the central forum for discussing international economic and social issues, and for formulating policy recommendations addressed to Member States and the United Nations system" (UN 2011). It is with this experience in mind that the creation of universal membership of the Governing Council must be viewed not as an end in itself, but as an important step towards creating a legally autonomous decision-making forum. A dedicated forum for decision-making on environment may better be able to make subsequent decisions on environmental governance, needed to more effectively address the mounting challenges to environmental sustainability.

In view of the above, the paper will argue that both options (a and b) for reform are feasible and effective means for strengthening IEG and must be considered seriously by decision makers if the stalemate of international environmental governance is to be solved. The options are presented in logical succession, arguing that achieving agreement on universal membership would be an initial step to strengthen IEG. Providing universal membership (see figure above) to the GC/GMEF would turn it into a global environmental governance forum with global representation and universal decision-making capacity. Arguably, such a forum could be better suited than ECOSOC or GA for debate and decisions on subsequent reform options for IEG, in particular also on option b) the establishment of a specialized agency on environment (Section 3).

## 2. REFORM PHASE 1: UNIVERSAL MEMBERSHIP OF UNEP GC/GMEF

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The option of universal membership dates back to 1998, when a UN task force recommended it in a report on environment and human settlements (UN 1998). Member States were unable to agree on the issue, because its advantages were not clear (UNEP 2004). Universal membership, however, clearly relates to a part of UNEP's mandate, and introducing it would enable UNEP to better "...keep under review the *world* environmental situation in order to ensure that emerging environmental problems of wide *international* significance receive appropriate and adequate consideration by Governments" (GA 1972).

The added emphasis shows one of the shortcomings on non-universal membership; because how can a non-universal council like the current Governing Council with its 58 members adequately address global environmental issues? This shortcoming is known, and has been one of the main arguments in earlier proposals for universal membership (UNEP 2004). Related to this lack of representation, the limitation of 58 members of the GC can also be said to perpetuate the north-south divide and inhibit the establishment of global governance including effective environmental cooperation.

Establishing universal membership is an important step signaling commitment of the international community to equal participation and responsibility, which are important aspects

of empowerment and sustainable development governance. Universal membership is certainly no guarantee that the north-south divide may be bridged as negotiation blocks may form that perpetuate the schism. But creating a global decision-making forum will send an important political signal that values such as common responsibility and inclusiveness are taken seriously.

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## 2.1 THE DIFFERENCE BETWEEN UNIVERSAL MEMBERSHIP AND UNIVERSAL PARTICIPATION

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When universal membership was proposed in the past, a compromise was achieved by establishing the UNEP's Global Ministerial Environment Forum.<sup>2</sup> This provided for the next-best solution: universal participation. Subsequently that forum would take place in parallel with the UNEP GC. However, participation does not equal membership. In reality, once decisions have to be made, the GMEF becomes the "exclusive" GC with only 58 voting members. Counterarguments to the proposal for universal membership have emphasized the benefits that universal participation already lends to the GC/GMEF. Certainly these have to be acknowledged, and much awareness and capacity has been built by this arrangement that has provided a forum for the world's environmental policy makers to meet and greet. However, universal membership should be viewed as a step towards establishing global representation of environmental decision makers in the true sense of 'decision-makers'.

If universal decision-making were achieved it would subsequently be possible to argue for the provision of legal autonomy to the GC. Doing so would ensure that environmental issues could find sufficient response amongst the world's environment ministers, who are mandated to give importance to environment related issues. This could remove some burden from the United Nations General Assembly (UNGA), which in any event may give environment issues attention in the way they relate to economic and political issues. Addressing environmental issues in an economic and political forum is also important but just not sufficient. Instead, it may be necessary to grant universal membership to UNEP GC and create a more dedicated decision-making body necessary to address many challenges facing environmental sustainability.

The need to create a stronger environmental decision-making body can be recognised in the historical context. Since UNEP's inception in 1972, crosscutting environmental problems have increased globally. Coherence in addressing issues related to air, biodiversity, climate, desertification, or water has become relevant for all countries' development. Extending the membership to all states would match the global scope of overarching environmental challenges, including the need to properly address Principle 7 of the 1992 Rio Declaration on common but differentiated responsibilities. Moreover, it would empower the GC/GMEF to better determine the course of environmental governance as it was originally envisioned in Resolution 2997 from 1972.

Skeptics argue that universal membership would make decision-making cumbersome when many voices have to agree on many points. This is a valid concern, which could be partly addressed by establishing either an executive board or an elected bureau of GC representatives. This bureau would be mandated to deal with day-to-day management issues and leave

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<sup>2</sup> It was established in 2000.

overarching issues related to the governance of the environment to the GA of the UNEP Governing Council.

One major drawback to introduction of universal membership is that it could mean that some countries lose comparable advantage in the GC decision-making process, as their vote will mean less with increased numbers of voting members. This has to be acknowledged as a significant hurdle hindering its introduction. In addition to the issue on influence, some countries oppose universal membership, because they fear it would create precedence for other UN organisations and bodies. Universal membership may be viewed as cumbersome for decision-making. To accommodate this, it could be possible to alter the decision-making structure of the GC. The following sections will summarize legal, financial and structural aspects of universal membership of UNEP's Governing Council as well as provide information to the benefits and drawbacks of such decisions.

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## 2.2 LEGAL ASPECT OF UNIVERSAL MEMBERSHIP

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The legal implications of universal membership are related to the convening role of the GC/GMEF and, as previously mentioned, it should be noted that the GC/GMEF has a dual function, distinguishing between the GMEF with universal participation, and the GC with its decision-making mandate limited to the 58 members. It can therefore be observed that the plenary of the GC, called the Committee of the Whole (COW) shifts between acting as GC and GMEF, depending on whether decisions have to be made or not. Changing this practice by extending decision-making responsibility to all countries would require a UNGA resolution, but it would not be considered impossible, as UNEP could remain a subsidiary body of the UNGA.<sup>3</sup>

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## 2.3 UNIVERSAL DECISION-MAKING

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Currently the GC uses the UN unanimity rule of decision-making. While this may be the most democratic method of voting, it also has certain drawbacks, including the increasing difficulty and inefficiency in reaching consensus amongst a greater number of voting members. To address this it could be possible to consider introducing new decision-making techniques. This could avoid opaque negotiation situations,<sup>4</sup> as well as lowest-common-denominator decisions or stalled negotiations due to inability to reach consensus.

There are examples from existing institutions that utilize multi-level co-decision-making systems. The co-decision procedure has become central to the European Community's decision-making. It is based on the principle of parity and means that neither the European Parliament nor the Council of Ministers (CM) may adopt legislation without the other's agreement (EU 2008). If agreement cannot be reached at initial attempt, disagreeing parties have the option of proposing changes to the proposal. These then have to go through a second reading by

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<sup>3</sup> If UNEP's status is elevated to that of Specialized Agency, then its reporting line may change. Legally, specialized agencies are not required to report to the UNGA but can specify the nature of their relationship to ECOSOC and the GA additionally.

<sup>4</sup> The World Trade Organization (WTO), which bases decision-making on consensus-based voting, has been criticized for being non-transparent in its decision-making process. It is said that negotiations often are kept informal with major developed countries being the most influential representatives in these negotiations <<http://www.towside.org.sg/title/bg13-cn/htm>>.

the European Parliament in order to either pass or be vetoed. This modality could be used in two instances being a) cases where block politics happen and working compromises need to be identified; and b) in cases where the GC/GMEF and the UNGA disagrees.

Other European Union (EU) voting practices can enhance efficiency of decision-making. At the moment, EU proposals are decided by *qualified majority* voting.<sup>5</sup> In a qualified majority voting scenario, a majority of over 71 percent of voting members' *weight* has to agree before a decision can pass. In practical terms it means that each member is assigned a weight (a number of votes); and in order for the CM to pass a bill, the aggregate weight of those voting for it must equal or exceed a set quota of 71 percent.<sup>6</sup>

Due to increasing number of EU member countries, the Lisbon Treaty (2009) decided to amend the voting structure to *double majority* voting in 2014. This means that the qualified majority condition specifies requirements not only in terms of a certain percentage of voting members but also with regards to the proportion of population represented. The new system is meant to ensure fairness in decision-making, as larger countries can benefit in terms of their share of population, while the one-country-one-vote part of the double weighed system in turn benefits smaller countries.

Primarily, the new voting system will be introduced to ensure that the larger countries will not be able to force decisions without sufficient support by smaller countries.<sup>7</sup> As a secondary benefit majority voting speeds up the decision-making process, when compared to consensus based decision-making and thus can be considered useful also for efficiency improvements. A potential drawback to this kind of decision-making could include its apparent complexity. Implementing such a system may require awareness-raising of its functions and advantages. In the case of UNEP, Nairobi could design voting software that calculates the qualified thresholds automatically so that only the essential delivery of position remains as key task for negotiators.

A similar method is practiced by the Global Environmental Facility (GEF), which uses double weighed majority. In a GEF voting scenario, support for a proposal requires at least 60 percent majority from all member countries and 60 percent majority from total contributions. This ensures that important decisions are not made only by those members that contribute the most to GEF's budget, but provides voice also to those that do not necessarily have the most financial capacity for a certain decision (Werksman 2003).

The evolving voting systems of the EU (supplemented by the example from GEF) indicate that increasing memberships of any group or forum will result in more complex decision-making procedures. However, the example shows that decision-making systems can be adjusted to accommodate both needs for efficiency as well as for democratic influence even in face of increasing (or universal) membership. Overall this indicates that institutions can evolve to respond better to the demands of the environment and that of their growing membership. Moreover, and perhaps most importantly, it also shows how decision-making systems can be

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<sup>5</sup> Also called weighted decision rule.

<sup>6</sup> The concept of weight is calculated by countries' population size.

<sup>7</sup> In detail the double majority voting system means that at least 55% of EU states must vote in favour of a proposal and at least 65% of the EU population must be represented in that group. To block a proposal, at least four countries must form a so-called 'blocking minority' <[http://www.eu-ophlysningen.dk/euo\\_en/spsv/all/43/](http://www.eu-ophlysningen.dk/euo_en/spsv/all/43/)>

designed to anticipate the heterogeneity of members and bring the highest degree of transparency and fairness into the decision-making modalities.

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## 2.4 APPLICATION IN PRACTICE

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Double weighted majority could be applied to situations for decisions involving larger funding for programmes. One factor could include funding as a variable additional to number of supportive countries. When legislative changes were proposed, a special *triple weighted* majority could be envisioned, in which not only funding but also number of countries as well as population determine the outcome of a vote. At the same time changing the voting structure would not be a precedent, because as shown above, if GEF is considered as a part of environmental institutions, then decision-making systems of the current environmental institutions are already diverse. This being said, it may be useful to propose additional research into the benefits and drawbacks of these options, to better provide information on the most suitable option for decision-making at a Global Environmental Governing Council (GEGC). This could be a conditionality to be managed by initiating countries that make the proposal for universal membership in Rio.

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## 2.5 FINANCIAL ASPECT OF UNIVERSAL MEMBERSHIP

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Similar to the overall core funding of UNEP, funding of the GC/GMEF is administered by the UNGA. This is a normal *modus-operandi* for programmes and funds that are subsidiary to the UNGA. Financing of the annual GC/GMEF derive from the UN Environment Fund.

It is important in this respect to note that the GC/GMEF itself absorbs only around one percent of UNEP's total annual budget. Thus, compared to the funding that is in fact needed to halt the destruction of the environment, the financial consequences of introducing universal membership of the governing council are negligible at best (ECOLOGIC 2004)). Since the event itself spends only miniscule proportions of UNEP budget, it makes little sense to use financial implications to argue against universal membership.

Earlier research on the issue of funding support for GC/GMEF revealed that the budgeting of the GC already anticipates and calculates the participation by non-members as well as members (reflecting the current universal participation of the GMEF). Countries are aware of that, and even developing countries that are not current members of the GC are invited to participate at the GC/GMEF with the understanding that the UN will cover the logistical cost of their participation. As this kind of support for participation is already common practice, universal membership would not place any additional financial burden on member states, neither directly as financial expenses for their participation, or indirectly on member states' contributions to UN budget.

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## 2.6 ESTABLISHING PERMANENT COUNTRY REPRESENTATION

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A drawback related to the financial implications of universal membership, however, could concern states that do not yet have permanent representation in Nairobi (Ecuadorian Ministry

of Foreign Affairs 2011).<sup>8</sup> Especially Latin American countries do not have embassies in Kenya,<sup>9</sup> and universal membership would incur additional expenses to establish a permanent presence in Nairobi. However, it can be expected that the bulk of the cost would be a one-time expense to establish a consulate or embassy on location. Until that is achieved, currently practiced interim solutions are possible: Latin America appoints representative focal points to ensure that information from UNEP's Committee of Permanent Representative (CPR) meetings is forwarded to all countries concerned (Danish Ministry of Environment 2011).<sup>10</sup> However in the long run, countries would have to establish permanent missions on location, and additional cost would be expected from that.

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## 2.7 UNANSWERED QUESTIONS OF FUNDING OF THE GOVERNANCE REGIME

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In a larger perspective, universal membership of the GC could form a suitable platform for discussions on expanding UNEP's funding options. Perhaps the granting of universal membership could come with a conditionality that requires the universal forum to earnestly deal with the larger issue of lacking funding for IEG. Fair decisions on this issue could then be made in a forum with global membership consisting of developed and developing countries at equal level and with equal influence in the decision-making process (see section above on change of voting structure).

The modalities of introducing innovative financing mechanisms such as Tobin Tax, levies on international air-travel, or assessed contributions as a miniscule proportion from countries' defense budget should also be openly discussed. These are well-known options for financing the environmental governance regime. More focus on such discussions would be timely; as would more focus on a related issue being the overall lack of consistency of funding, which is hampering with effectiveness of planning and execution of UNEP's operations.<sup>11</sup>

There remain additional questions pertaining to financing of a functional environmental regime and financing of the implementation of Multilateral Environmental Agreements (MEAs) on national level. Universal membership is clearly not a silver bullet for environmental governance, but it should be considered as an important intervention to strengthen it. It is clear, however, that much higher budgets for environment will be necessary in the coming years to address implementation gaps, as well as lacking capacity and access to technology - all pertinent issues repeatedly addressed by developing countries in intergovernmental negotiations. These substantial hurdles to implementation could be addressed by a GC/GMEF with universal membership.

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## 2.8 STRUCTURAL ASPECT OF UNIVERSAL MEMBERSHIP AND ITS RELATION TO MEAS

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As was briefly mentioned in the introductory paragraphs, the sense in establishing a global forum to address international environmental issues could be considered a normative truism.

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<sup>8</sup> Personal communication

<sup>9</sup> See <http://embassy.goabroad.com/embassies-in/kenya#> for a list of embassies in Nairobi. Currently the only Latin American countries represented are Argentina, Brazil, Chile, Colombia Costa Rica, Honduras and Venezuela.

<sup>10</sup> Personal communication

<sup>11</sup> Personal communication

And as such, most people would tend to agree with need for a better IEG architecture. However, it should be clearly illustrated how universal membership could better address shortcomings in the current environmental governance structure as well as how it would contribute to improving the environment. This is necessary to make a convincing argument for universal membership.

One oft mentioned criticism of environmental governance focuses on the problem of overall fragmentation, overlap and inefficiency. In response to this critique, mainstreaming efforts have been undertaken in the chemicals cluster and the biodiversity related conventions. These efforts show that MEAs can either be clustered according to issue-based, functional/organizational criteria, or they can have a particular regional scope by co-locating and merging secretariats (Najam 2006; Fauchald 2010).

In this regard, introducing universal membership could potentially contribute to enhancing coherence and efficiency of the several hundred existing environmental agreements by creating an umbrella forum for centralized decision-making on MEAs. The close relationship between UNEP and many MEAs is written in the text of the conventions. For example, the following excerpts from the Convention on Biodiversity (CBD) show structural and financial links between UNEP and the MEA:

Decision I/4: “Designates the United Nations Environment Programme to carry out the functions of the Secretariat of the Convention while ensuring its autonomy to discharge” (CBD 1994).

Decision I/6: “Designates the United Nations Environment Programme as the Trustee of the Trust Fund for the Convention on Biological Diversity” (CBD 2010).

The Rotterdam Convention contains similar decisions, cementing its relationship with UNEP (and the FAO):

Decision RC-1/9: “Invites the Executive Director of the United Nations Environment Programme and the Director General of the Food and Agriculture Organization of the United Nations to appoint an Executive Secretary in consultation with the Conference of the Parties through the Bureau” (Basel 2010).

“The Executive Director of UNEP and the Director-General of FAO delegate their authority to the Executive Secretary from UNEP and FAO, to act on their behalf, to represent the Secretariat and to carry out its functions” (WHO 2007).

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## 2.9 CLUSTERING MEAS UNDER A GC UMBRELLA

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The examples above illustrate the institutionalized relationships between UNEP and the MEA Secretariats. They show that, in addition to being responsible for the initial establishment of

many MEAs, UNEP functions as a secretariat for many of them. As can be seen in the legal text from these conventions, there may be possibilities for further developing the relationship between UNEP and the MEAs, in particular if UNEP GC/GMEF is equipped with universal membership and decision-making capacity. That way, the forum could become a venue for co-reporting, sharing of best practices and enhance coherence among MEAs. Establishing such a forum might incur some up-front cost for establishing it, but it is expected that it could yield cost-benefits in the long term (Urho 2010).

The possibilities for introducing such co-reporting and decision-making on MEAs at GC/GMEF would have to be researched in detail, since drawbacks could include that it might compromise the legal autonomy of MEAs as well as overlap with the functions of the Conference of Parties (COP). Such potential for conflict between UNEP and MEAs may also be one of the major reasons to why universal membership has not been accepted despite repeated suggestions and arguments in its favour.<sup>12</sup> To avoid the potential for conflict between UNEP and MEAs it would be necessary to formulate agreements that clearly designate the roles of the respective forums. Doing so might make the option of MEA COP co-location with UNEP GC a politically viable and acceptable option for UNEP and for the established MEA secretariats. This could make the current IEG system less fragmented and more efficient, both in terms of time, and finances.

Apparent discrepancies between the universality of the GC/GMEF and MEAs with only limited membership could be addressed by way of discerning between 'multilateral' and 'plurilateral' agreements (Biermann 2011). Accordingly, members of GC that would yet have to ratify an agreement could participate with observer status, as is already practiced in other forums. Such multi-tier membership could also have the potential of enhancing ratification ratios of MEAs among laggard states.

Finally, positioning some MEAs under a UM GC/GMEF would present a good opportunity for effectiveness gains, as doing so could result in better reasoning for national level policy and implementation committees that could better articulate policies and measures to respond to the needs of thematically related MEAs on the ground. In the long-term, the clustering of MEAs in a single forum could enhance compliance and enforcement of the agreements. Modalities used in the trade regime hint at possible measures, as the WTO is utilizing a system of 'cross-agreement sanctioning' (Wendell 2011). This option allows the suspension of concessions under other agreements, if some reason or another, penalties under the non-compliant agreement is impossible.

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## 2.10 IN SUM

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UNEP GC 26 was not able to make a decision on universal membership. While some countries stated their support, others clearly did not; and diverging views on this issue remain. The arguments presented above will hopefully contribute to a better understanding of the potential advantages of universal membership and the options for introducing new voting systems to

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<sup>12</sup> See Fauchald, Ole 2010. *International Environmental Governance: A Legal Analysis of Selected Options*. Fridtjof Nansens Institut. <http://www.fni.no/doc&pdf/FNI-R1610.pdf> for a detailed analysis of the benefits of clustering MEAs under UNEP. Additionally, see <http://www.iisd.ca/vol16/enb1619e.html> for details on countries' in favour of universal membership.



outweigh and avoid some of the potential drawbacks of increased membership. As stated, it will be important to clearly demonstrate to decision makers that universal membership will not change the amount of funding needed to convey the annual GC/GMEF. The following table summarizes some of the main points made in the previous section:

<p><b>Expected benefits</b></p> <ul style="list-style-type: none"> <li>• Global representation and increased voice of ministries of environment and better recognition of global environmental issues;</li> <li>• Increased efficiency in decision-making;</li> <li>• Enhancement of coherence and efficiency of MEAs;</li> <li>• Clustering of MEAs under a forum with universal membership could yield long term cost-benefits;</li> <li>• Better addressing MEAs would enhance UN credibility with member states and increase likelihood of continued support for subsequent broader reform of IEG;</li> </ul>	<p><b>Potential challenges</b></p> <ul style="list-style-type: none"> <li>• Some countries may perceive increasing number of ‘voices’ in GC/GMEF as loss of comparable advantage in decision-making process;</li> <li>• Could create precedence for other UN organizations and bodies’ membership structure;</li> <li>• Financial consequences of introducing universal membership of the UNEP GC should be fully investigated and reported;</li> <li>• Not all countries have permanent representatives in Nairobi;</li> </ul>
<p><b>Required input</b></p> <ul style="list-style-type: none"> <li>• Change decision-making modality from consensus to qualified majority;</li> <li>• Establish executive board or elected bureau for day-to-day management;</li> <li>• If GC/GMEF becomes decision-making umbrella over related MEAs, ‘cross-agreement sanctioning’ to incentivize compliance with agreements could be introduced;</li> <li>• Multiple MEAs under one roof should be handled by way of discerning between ‘multilateral’ and ‘plurilateral’ agreements;</li> <li>• Certainty among member states that universal membership will not change cost of annual GC/GMEF;</li> </ul>	<p><b>Expected output</b></p> <ul style="list-style-type: none"> <li>• Global forum could make strong decisions on environment and improve effectiveness of IEG;</li> <li>• Faster decision-making process;</li> <li>• Possibility to cluster decision-making on MEAs;</li> <li>• Lessen operating cost of COP/MOPs when mainstreamed with GC/GMEF;</li> <li>• Possible to enhance compliance by use of ‘cross-agreement sanctioning’ between related MEAs;</li> </ul>

Table 2: Universal Membership

Source: Author’s compilation

Trade-offs will have to be taken into consideration if environmental governance is to be meaningfully reformed. The tradeoffs refer to the potential efficiency gains from locating a number of MEAs under UNEP GC. Existing MEA secretariats might not agree to that. However it is worth to remember that the final decision to change the location of the MEAs or not can be executed gradually, and ultimately depends not on the willingness of the MEA Secretariat but the intentions of member states.

Finally, the introduction of universal membership could be combined with a conditionality, i.e. that the empowerment of the forum shall be linked with commitment and responsibility to deal with other central issues to the IEG process such as predictability of funding, proposing the establishment of legal autonomy and decision-making power, implementation assistance from UNEP in support of MEAs on country level, and other concrete steps needed to strengthen

environmental governance and bridge the implementation gap. However, these issues require consensus on important but contentious further steps that a universal forum equipped with decision-making power could address. Subsequent tasks of determining detailed strategies for supporting MEAs on country level, additional capacity building for governments, and other crucial issues needed to strengthen environmental governance could be approached effectively by elevating the status of UNEP from its current programme to a specialized agency on environment.

### 3. REFORM PHASE 2: ESTABLISHING A SPECIALIZED AGENCY ON ENVIRONMENT

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The discussion on strengthening international environmental governance has progressed over the last decades but a conclusion is as lacking as ever. The recent Nairobi-Helsinki consultation process established points on forms, functions and responses that, if implemented, will bolster IEG. The discussions concluded with agreement to focus on five different forms, some of which entail incremental improvements to existing bodies as well others with broader reform objectives (UNEP 2010). This section will limit its focus to the option for establishing a specialized agency on environment.

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#### 3.1 LEGAL ASPECT, BENEFITS AND DRAWBACKS OF A SPECIALIZED AGENCY:

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In the UN context, specialized agencies are created to address issues that UN and member States deem important enough to justify the creation of an autonomous agency. Such agencies have their own legal identity, a plenary decision-making body (General Assembly), a representative executive body and a secretariat. They can be established by a resolution from UNGA (UN Charter, Article 57), to which they are linked through ECOSOC. In addition, the UNGA (UN Charter, Article 63) can determine the details of the agency's relationship with the UN, and to what extent it would have to follow recommendations of ECOSOC.

Establishing a specialized agency for environment would demand great political commitment from the international community, because it entails creating a legally autonomous agency with its own decision-making power. This is a conscientious issue, because doing so could remove environmental decision-making power from the GA and ECOSOC. Critical voices argue that this drawback is sufficient to consider elevating UNEP's status to a specialized agency for environment as an unrealistic option.

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#### 3.2 DECENTRALISED DECISION-MAKING

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The decentralization of autonomous decision-making may certainly deter some parties from supporting this option. However, it might be helpful to consider this issue in a different context and argue that if decision-making on environment related issues were to be deliberately removed from ECOSOC and GA, it would be possible for the latter bodies to better focus on overarching economic and political governance issues. Indeed, these issues have an environmental dimension, but concentrating environmental decision-making in an autonomous agency could potentially make environmental decision-making more effective, and this is needed for the current governance structure.

EU practices indicate that decentralization of power can be useful. In its establishing treaty (Amsterdam Treaty), the institution acknowledged the importance of 'proportionality, and subsidiarity' and made them central and determining principles of its decision-making structure (EU 2011). Accordingly, subsidiarity is used to decentralize decision-making on behalf of the EU, " ...in areas which do not fall within its exclusive competence" (EU 2006). For environmental governance on the UN level it could mean that the UNGA delegated technical decisions on environment to the specialized agency. Contrarily, similar rules would apply to the GA of the specialized agency, which would have to (and legally could, by means of UN Charter Article 63) consult decisions of great economic and social importance with the UNGA before making decisions.

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### 3.3 STRENGTHEN THE ENVIRONMENT VOICE ON INTERNATIONAL AND NATIONAL LEVELS

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While the call for establishing a specialized agency on environment is pertinent, it has not yet been accepted and international environmental governance remains crippled. A similar situation can be observed on country levels, where ministries of environment often find themselves positioned rather badly in the national decision-making hierarchy. There is a need for elevating the status of environmental agencies and ministries on national as well as on international levels, because UNEP in a sense is representing all national environmental authorities. Compared to the situation in 40 years ago, environmental authorities in the world have become full-fledged ministries in many countries. This gives a good reason for strengthening UNEP accordingly. Establishing a specialized agency for environment would create an autonomous decision-making structure on the international level that could help policy makers translate international decisions into national level environmental policies. More national level clout of environmental ministries could benefit not only increased capacity of environmental officials, but also enhance agenda setting and negotiation power in the national policy formulation and assessment processes.

The potential drawback of creating a separate decision-making structure has often been used as one of the main arguments for UNEP retaining its status as a programme. Countries have argued that a programme by its very definition is nimble, flexible and therefore able to better mainstream environment throughout decision-making (Ivanova 2007). It is an important point; in fact the increase of cross-cutting environmental issues has only lent more amplitude to the need for integrating environmental concerns throughout policy making processes at all levels. However, the question is whether weak and badly funded programmes are really the right vessels to enhance the voice of the environment in a choir of strong singers.

As was mentioned, an environment programme has not been able to sufficiently determine the international political agenda. A stronger body with legal impetus to oversee the integration of environmental concerns throughout decision-making is becoming increasingly relevant to halt environmental degradation. In relation to the sustainable development discourse, it has also become clear that the environmental dimension of sustainable development has been neglected in favour of economic growth. Realizing the need to reaffirm the importance of the environment as fundamental foundation economies and well-functioning societies, it is therefore argued that ministries of environment and natural resources need a much stronger and autonomous body to place the environmental agenda better at all levels of the governance discourse.

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### 3.4 COMBINING TOP-DOWN AGENDA SETTING WITH BOTTOM-UP INTEGRATION

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A specialized agency would not displace environmental focal points in other ministries, nor would its purpose be to unite and mainstream all environmental divisions and programmes under one. This kind of bottom-up integration on the implementation level is already underway. Environmentalists perceive as a significant progress that many public and private sector institutions have established either environmental terms of reference as part of their mission, or have positions dealing with environmental mainstreaming. At the same time, however, bottom-up integration is not sufficient, and a specialized agency would be needed to steer top-down integration of environmental concerns into planning, policy-making and evaluation. Options that are specific to the legal clout and personality of a specialized agency would include better agenda setting in the policy making process, stronger legal and regulatory purview, and the ability to raise serious concerns with regards to other environmentally harmful policy proposals.

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### 3.5 FINANCIAL ASPECT, BENEFITS AND DRAWBACKS OF A SPECIALIZED AGENCY

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In addition to considerable political will for its establishment, a specialized agency will need more and predictable funding to position environment higher on the agenda and carry out the functions of its mandate. Normally agencies determine the details of their funding arrangements with their constituents. Many specialized agencies, as for instance the International Labour Organization (ILO), the World Meteorological Organization's (WMO) and the World Health Organization (WHO) derive parts of their funding from assessed contributions.

Assessed contributions are normally based on countries' capacity to pay and measured by factors such as national income and size of population. There are minimum and maximum ceilings to the contributions, ensuring that no state pays more per capita than the per capita contribution of the highest contributor (WHO 2000). Other parts of the budget can derive from extra budgetary donations, trust funds and partnership agreements that can be earmarked for special cooperation programmes.

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### 3.6 MEMBERSHIP DEFINED BY LEVEL OF CONTRIBUTION

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Some agencies, including the WHO, also allow for differentiated memberships that provide space for countries, territories, or other actors with lesser contributions to partake as observers, or with a limited voting capacity (WHO 2009). A concrete example of heterogeneous membership systems can be seen in the World Tourism Organization that was elevated to become a UN Specialized Agency in 2003. It has differentiated membership status that apart from effective members also accommodates associate members, affiliate members and observers (UNWTO 2011). The membership status however, does not depend on level of financial contributions, as these are decided on an assessed scale, but membership status is tailor made to sovereign states, territories, associations, or private entities. While this example shows the option of differentiated membership status, it would have to be determined whether similar differentiation would be possible as a factor of funding contributions, since such could potentially increase the political willingness towards establishing a specialized agency. However, such proposal should also be cautiously approached, since it might result in an agency without "effective" and paying members.

The ILO introduced a flexibility mechanism in 2006 to give countries some leeway in the event that they were unable to cover their assessed contributions. Since resilience to financial and economic fluctuations would be considered a necessary element of any funding structure for the future, it could be useful to design the financing structure of a specialized agency with such an inbuilt flexibility mechanism. In addition, a specialized agency could derive parts of its funding from 'other' sources and 'miscellaneous income', and allow fund raising from the private sector and philanthropists to play a role that matches the expected responsibility from various stakeholders in a more effective and multi-level environmental governance system. A related issue was also briefly mentioned in the section on universal membership, where the intention would be to establish the GC/GMEF as suitable forum determining the details of such 'innovative funding' systems.

Comparing the financial implications of a specialized agency with those of universal membership of the GC/GMEF, it becomes clear that the former would entail much greater changes to funding structure and amount to have a fair chance to succeed. Merely establishing a specialized agency without making inroads on funding issues would be a recipe for disaster and probably even weaken environmental governance if that is possible. A honest effort therefore requires that details are determined with regards to how the agency should respond to requirements set forth in its mandate, including concrete budget lines for implementation activities. The funding related issues may also constitute one the most major drawbacks of the specialized agency option, and also explains why, despite prolonged attention in international negotiations, it has been impossible to introduce such upgrading of UNEP.

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### 3.7 STRUCTURAL ASPECT, BENEFITS AND DRAWBACKS OF A SPECIALIZED AGENCY:

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As seen in Resolution 2997, a main component of UNEP's mandate is to coordinate as well as review the direction of the environmental work within the UN system (UNEMG 2011). Formerly, this part of the mandate fell under the System-wide Medium Term Environment Programme (SWMTEP). It was introduced in 1999, but then abandoned and replaced with the current Environment Management Group (EMG).

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### 3.8 ENVIRONMENTAL MAINSTREAMING IN THE UN: DONE DEAL?

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Today there are as many as 44 environmental divisions and offices in the UN. Most of those have appeared not because of UNEP's success in mainstreaming environment in the UN, but because agencies and UN bodies themselves have gradually mainstreamed environment in the system. It may therefore be that a new UNEP as specialized agency should not even be primarily concerned with the UN response to environment, but should focus more on serious problems related to persistent implementation gap of environmental agreements on national and local levels, regional and national capacity building etc. Therefore, elevating UNEP to a specialized agency on environment is not so much about effectively mainstreaming environment throughout the UN system but more about the need for a stronger institution to position environment issues better on the global political agenda and create a body with the mandate to respond to demands on regional and national levels. Strengthening of UNEP only at the international level would not be sufficient. Asia, which has become the world's production center, should have much stronger regional environmental institutions to better deal with increasing environmental issues. A stronger regional representation could in turn strengthen

the environmental work of regional and sub-regional bodies, including Tripartite Environment Ministers Meeting (TEMM) in North-east Asia, or the environmental programmes of the Association of Southeast Asian Nations (ASEAN).

Interviews with current and former UN staff identified one of the main reasons for UNEP's failure to coordinate environment within the UN system as being rooted in the fact that the programme, with its relative legal weakness, has been unable to sufficiently leverage and influence many of the larger programmes and agencies within the UN (UN 2011).<sup>13</sup> And as mentioned, the mainstreaming task is already happening to a large extent, throughout UN bodies and their initiatives. However, the 44 existing environment divisions and UN initiatives indicate that fragmentation and overlap is still a problem that needs to be addressed both inside the UN system and on country level. In this regard, expanding the "One-UN Initiative" would be beneficial as would clustering MEAs. This might also enhance the UN's level of credibility and also support from member States both to the UN at large and to broader reform options as those discussed in this paper. While larger efforts are needed to address fragmentation and overlap, initial steps would include signing of Memorandums of Understanding (MoUs) between UNEP and the respective agency or institution aimed at effectively harmonizing the environmental work among the institutions.<sup>14</sup>

Finally, if UNEP were to become an agency it would also be better positioned to suggest and debate legal instruments in its plenary forum (GC/GMEF) as well as adopting them in its own General Assembly. Even though a specialized agency would not be as closely related to the UN as a programme is, provisions could be made so that the Agency remained a central member of the UN's Chief Executives Board for Coordination (CEB).<sup>15</sup> Doing so would be important to ensure that, also in the future, it would remain central to coherence and cohesion of environmental work within the UN and its related specialized agencies.<sup>16</sup>

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### 3.9 IN SUM

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The discussion on programme vs. specialized agency has been tabled at many intergovernmental discussions, and while on several occasions many UN member States have supported the upgrading of UNEP to a specialized agency - there has never been sufficient impetus for the establishment of a specialized agency on environment.<sup>17</sup> However, Rio 2012 can create sufficient momentum and support from governments to agree on a Roadmap that can determine the direction as well as milestones to strengthen IEG, and perhaps consider the possibilities for establishing a specialized agency on environment. The following table sums up some of the points made in the text above:

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<sup>13</sup> Personal communication; Nairobi and Bangkok (2011).

<sup>14</sup> Member states could initiate this development by submitting a request for a UN GA resolution.

<sup>15</sup> Additionally, a previous paragraph also summarized Article 63 of the UN Charter, which provides options for legal affiliation between the UN and a specialized agency.

<sup>16</sup> <http://www.unsceb.org/ceb/home>

<sup>17</sup> Biermann (2007) states that, over time 50 countries have supported the creation of a Specialized Agency.

<p><b>Expected benefits</b></p> <ul style="list-style-type: none"> <li>• Placing environmental decision-making with GC/GMEF could allow ECOSOC/GA to better focus on overarching economic and political governance issues;</li> <li>• Would be well positioned to debate legal instruments in its plenary forum (GC/GMEF) as well as adopting them in its own General Assembly;</li> <li>• Increased efficiency of environmental decision-making;</li> <li>• Increased clout of environmental ministries could enhance agenda setting and negotiation power in national policy formulation and lead to more effective environmental policy making;</li> <li>• Better agenda setting in national policy making process, stronger legal and regulatory purview, and the ability to veto the agenda of other environmentally harmful policy proposals;</li> </ul>	<p><b>Potential challenges</b></p> <ul style="list-style-type: none"> <li>• Removes some of the environmental decision-making power from the GA and ECOSOC;</li> <li>• Ingrained belief that an environment programme by its very definition is nimble, and flexible and therefore better able to mainstream environment throughout decision-making than an agency;</li> <li>• Widespread (but erroneous) belief that a specialized agency would no longer be affiliated to the UN (UN Charter, Article 63);</li> <li>• Demands great political commitment from the international community;</li> <li>• The requirement for more and predictable funding to position environment higher on the agenda may deter countries from supporting this reform option;</li> <li>• Merely establishing a specialized agency without also making inroads on funding issues would be a recipe for disaster. It therefore would require that details be determined with regards to how the agency should respond to requirements set forth in its mandate, including concrete budget lines for implementation activities.</li> </ul>
<p><b>Required input</b></p> <ul style="list-style-type: none"> <li>• Political commitment from international community;</li> <li>• Needs a legally autonomous agency with own decision-making power;</li> <li>• Resolution from UNGA (UN Charter, Article 57);</li> <li>• For political feasibility GC/GMEF should consult decisions of great economic and social importance with the UNGA before making decisions (UN Charter, Article 63);</li> <li>• Could include other constituencies than just governments (example from ILO's structure (industry, labour unions, governments) and representatives from civil society);</li> <li>• More effectiveness of IEG would have to prioritize top-down integration of environmental concerns into planning, policy making and evaluation also on national levels;</li> <li>• Would need more and predictable funding to position environment higher on the agenda;</li> </ul>	<p><b>Expected output</b></p> <ul style="list-style-type: none"> <li>• Autonomous decision-making structure on the international level that could help policy makers translate international decisions into national level environmental policies and implementation;</li> <li>• Environmental concerns would be better and more strongly represented in international as well as national policy formulation agenda;</li> <li>• Environmental dimension of sustainable development receives more attention compared to economic and social dimensions, that traditionally have had higher priority;</li> </ul>

Table 3: Specialized Agency

Source: Author's interpretation

#### 4. CONCLUSION:

By highlighting a number of weaknesses of current IEG, the above sections have argued for a broad reform to UNEP in order to strengthen IEG and to enable a better response to current and anticipated environmental challenges. The paper has argued that reform and strengthening of

IEG is important because 1) environmental challenges have grown in impact and magnitude along with globalization but the architecture has not yet evolved to respond to these emerging challenges; and 2) governance has become multi stakeholder and more participation is needed from all stakeholders in order to ensure coordinated and synergetic governance.

To address the issue of environmental governance reform, the paper has established that incremental reform options, while important, will not suffice to significantly strengthen IEG. Instead it has proposed a phased reform consisting of two broader reform options and summarized key points related to each. The analysis has focused on legal, financial, and structural implications of the reform options, and emphasized possible benefits and drawbacks as summarized in the tables above. The two options have been presented in succession to argue for their relatedness and make a case for how countries could create momentum towards broader reform and strengthening of environmental governance by mobilizing support for introducing universal membership of the UNEP GC/GMEF.

As for the first reform option of universal membership, the paper has argued that it would be possible to accommodate the increased complexity of universally voting members by adopting a qualified majority voting system to improve efficiency of decision-making. The feasibility of the decision-making was exemplified by the EU, which has gradually adopted qualified majority voting to accommodate increasing members. Apart from empowering global environment ministers by creating such universal membership, the paper has also shown how it could become a decision-making umbrella for MEAs, thereby clustering debate and decision-making of those of the treaties that already have a close relation to UNEP written in their legal texts. This would benefit both coherence and efficiency of IEG.

Apart from being the first phase of a broader reform of UNEP, it is of course true that universal membership can be viewed as a reform option in itself and without connection to other reform options. It is conceivable that it could be introduced primarily for the benefits of global representation and better decision-making on IEG issues, arguably these benefits are significant and sufficient to justify it. If the UNGA were to provide the GC/GMEF with universal membership and decision-making power, it is very likely that it would significantly empower the ministers at the GC/GMEF to make strong environmental decisions, because conversely to the GA, the GC would be a forum especially mandated for environmental issues. This would give a different priority to environmental decision-making when compared to the GA, where other issues have had higher priority.

Subsequent to universal membership of the GC/GMEF, the second broad reform phase of establishing a specialized agency, was also emphasized. In this regard the paper argued that an environmental policy makers' forum with universal membership could propel the creation of a globally representative decision-making forum for international environmental policy. If this could be achieved it would be an obvious next step to negotiate a UN GA Resolution towards establishing a specialized agency with legal independence, but affiliated to the UN. Such a mandate could have a tremendously positive effect on the clout of environmental agenda setting and policy making, internationally and nationally.



#### 4.1 FROM PLEDGE TO ACTION: COOPERATION AMONG STAKEHOLDERS

Since international environmental agreements often fall short on national levels and in the stages of implementation, it will not be sufficient to keep IEG purely on the intergovernmental arena. To address this issue, the paper has argued that benefits for national level environmental policy have to be identified. To do so, more support must be provided to environmental ministries and agencies on national and local levels. Strengthening environmental ministries on national and local levels is a two-way process. For the UN-bodies, it will be necessary that they continue to cooperate and implement cohesively expanding on the “One-UN” initiative and articulate ways of cooperation as well as demarcation between and among the agencies. Environmental governance in this way will fall beyond UNEP as an agency and some tasks will have to be undertaken in cooperation or by representation of other UN agencies, NGOs and national stakeholders, according to which solution is the most effective and efficient. The cooperation could be visualized by means of the following figure:

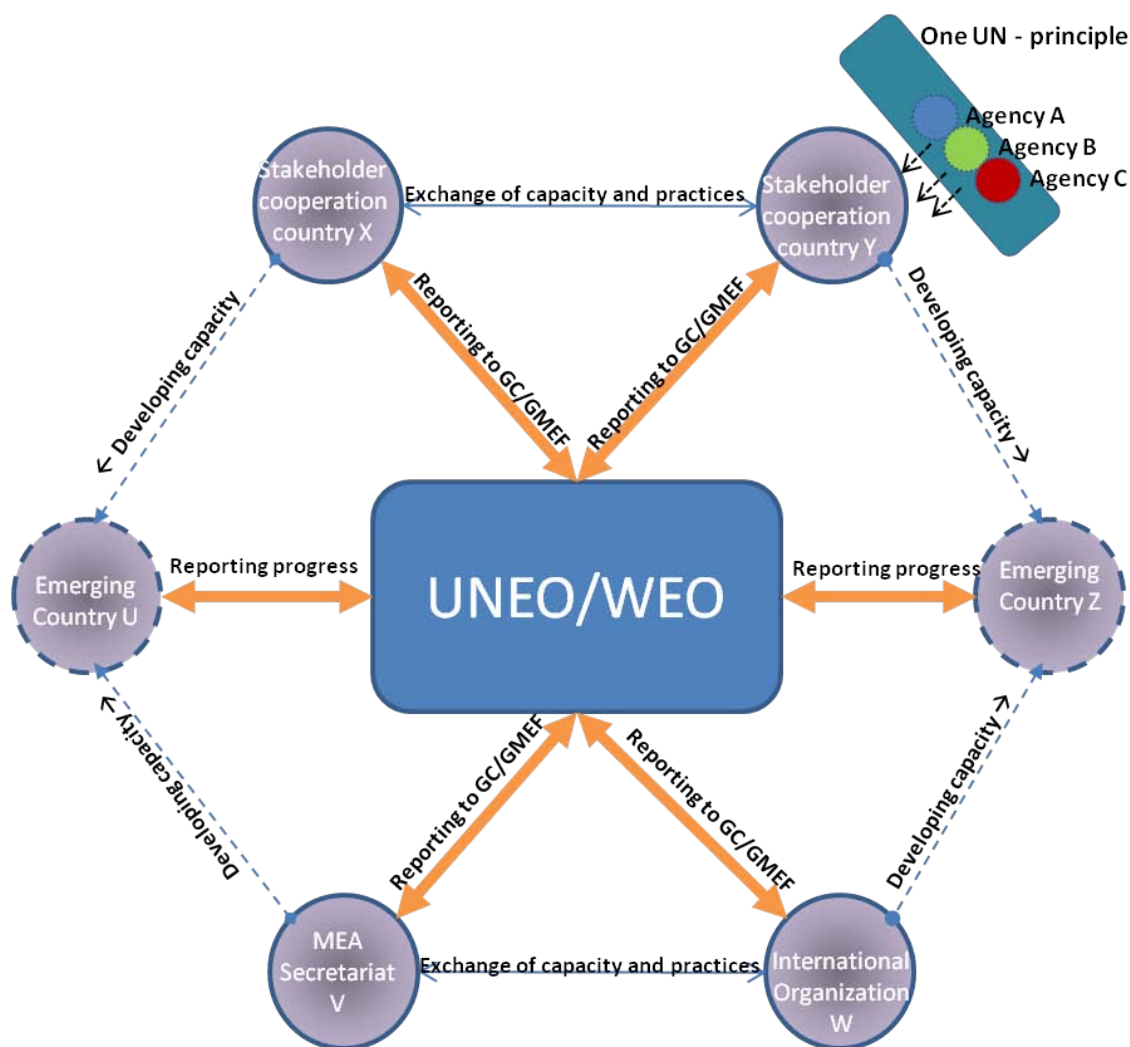


Figure 4: Cooperation on implementation levels

Source: Author’s interpretation

Exchange of knowledge and good practices between countries and sectors is also depicted in the figure, this kind of initiative can take place bilaterally decided and organized by countries

themselves and with the help of agencies. Reporting of progress for least developed countries (LDCs) and reporting on MEA commitments overall could then be done to the plenary forum of the specialized Agency (UNEO/WEO). For national policy makers, the strengthening of the environmental mandate in comparison with other ministries will have to be implemented in national decision-making processes. As was emphasized in the paper, a direct benefit could be harnessed if policy makers were to take advantage of the efficient decision-making in the GC/GMEF and agree on issues to strengthen implementation of environmental agreements on national level. Moreover, a specialized agency could initiate the establishment of domestic '*interlinkages*' committees tasked with identifying thematic links between environment and other important sectors of the economy such as water, energy, transport, etc. In this regard the paper has argued that additional integration of environmental concerns could be achieved politically through enhanced environmental agenda setting, influence on national budgeting or other interventions that may vary according to national circumstances. The paper has argued that doing so would result in better enforcement of MEA commitments, especially if MEA co-decision could become part of the GC/GMEF as decisions could be made more efficiently.

While the two-phased reform proposal establishing universal membership of the GC/GMEF and establishing a specialized agency resemble significant reform options, essentially the improvement of IEG has to be carried forward by decision makers themselves. This implies that the conscientious issues concerning amounts and predictability of the IEG regime's funding need to be addressed along with capacity building for developing countries, better integration of environment issues into decision-making, monitoring and assessing the environment, access to information and environmentally sound technology and other emerging issues.

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#### 4.2 REASONS FOR RESISTANCE AND REASONS FOR SUPPORT

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If universal membership and specialized agency options resemble the way forward, the question still lingers then why governments have not chosen to sufficiently back them up and initiate their implementation long ago. Partly this can be explained by an overall lack of trust in the UN and the multilateral system of negotiation and decision-making as a whole. Countries and their citizens have increasing trouble seeing the relevance of the complex international governance structures. The UN itself should continue to emphasize its internal reform to show that incremental efficiency improvements are being undertaken. Among other measures it will therefore be important to undertake thorough analysis of how the identified options in the Nairobi-Helsinki Outcome will actually improve the functions and tasks identifies as important for IEG. Additionally, it is important that the UN leads by example and shows not only how environmental governance can be effectively mainstreamed in their organization, but also why it should remain a relevant and credible institution for the global community.

National level governments also play a decisive role in determining support or resistance to strengthening environmental governance. On these levels it could be advised to place effort on national awareness campaigns and information dissemination. The public must clearly understand the role of the UN, the links between international environmental governance structures and their lives and how the international environment affects the well-being of local communities.

It is important to make this point; because many states remain convinced that strong international governance would compromise their national sovereignty. In fact, global

governance will not compromise the sovereignty of states. On the contrary, because global environmental impacts can be felt increasingly on the local scale, globalization has extended the reach of nation states' interest. It should therefore be in the interest of sovereign nation states to upgrade and mandate institutions whose purpose is to address global environmental issues to improve the quality of the global and local environments.

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