



International
Environmental
Governance:
Some Issues from a
Developing Country Perspective

A Working Paper by
Third World Network

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SOME ISSUES FROM A
DEVELOPING COUNTRY PERSPECTIVE**

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NOTE:

This Working Paper is a contribution to the on-going discussion on how to improve International Environmental Governance. The Paper was prepared by the Third World Network at the request of the Chairman of the Group of 77. It was authored by Chee Yoke Ling and Martin Khor.

CHAPTER ONE

SUMMARY

The context for the process of strengthening International Environmental Governance (IEG) must be sustainable development, with a full integration of three pillars: environment, economics and social. The process should thus be part of the broader framework and goal towards a strengthened International Sustainable Development Governance, as part of the input for the World Summit on Sustainable Development (WSSD) 2002.

The relationship between the current international governance structures (environment, trade and finance) and the impediments to the full realisation of the United Nations Conference on Environment and Development (UNCED) spirit and agreements should be examined in the WSSD preparations. Inputs from the Open-ended Intergovernmental Group of Ministers or Their Representatives on IEG to the WSSD process should therefore address these linkages.

The approach to strengthen IEG should be evolutionary and incremental, having first reviewed and assessed the current situation, where IEG is fragmented, diffused and often overlapping. Many options have been proposed, including a World Environment Organisation and bringing all Multilateral Environmental Agreements (MEAs) under an umbrella framework. However, substance and goals should precede form.

While there is much talk and effort about coordination, there should

be clarity of purpose and mechanisms for coordination and cooperation among MEAs and among the various UN entities. The relationship between the UN system and the Bretton Woods institutions and the World Trade Organisation should also be clarified, with sustainable development as the overriding objective. A proliferation of coordinating bodies can be counterproductive.

Since sustainable development is the context and environmental integrity is the focus for the process, the United Nations Environment Programme (UNEP) has a key role to play. While UNEP can be enhanced to fulfil its role as the “principal UN body in the field of the environment”, UNEP is only one component of the IEG Architecture and the ultimate Sustainable Development Architecture.

Similarly, other parts of the UN system, especially the Commission on Sustainable Development (CSD), as well as the Global Environmental Facility, require review. The institutions and work of the many MEAs need to be better coordinated so as to make MEAs more effective; some of the many issues relating to this are discussed.

An enhanced UNEP and its relationship with MEAs and other components of the IEG need to be better defined. The relationship between UNEP and the CSD is important. The relationship between the Environmental Management Group and the CSD Inter-agency Task Force mechanism needs to be rationalised.

A strengthened UNEP, with a better defined relationship with the CSD, as well as the CSD itself, can discuss and throw light on cross-cutting issues such as the relationship between trade and environment (and even wider, the relationship between economics, development and environment) and the results of the discussion can influence the discussions in other fora such as the WTO and the Bretton Woods institutions.

The Global Environment Ministers Forum has the potential to raise the political profile of the environment and help bring cohesion to MEAs, as well as to take decisions on critical environmental problems, including initiating new MEAs or new actions and campaigns warranted by emerging situations. However, other Ministers have to be actively involved too. Innovative ways should be explored to engage a broader participation of other sectoral Ministers via the High Level Segment of the CSD so that the sustainable development agenda can progress.

The Open-ended Intergovernmental Group of Ministers or Their Representatives on IEG must continue to work in an open and transparent manner, with the full and meaningful participation of developing countries. Keeping in mind that the IEG process itself can lead to a proliferation of meetings, there should be more synergy between the Environmental Management Group and the Intergovernmental Group.

Whilst an enhanced UNEP is needed for IEG, correspondingly and simultaneously there should be a strengthening of the resources, capacity and role of the CSD. The integration of development and environment goals, policies and programmes is needed more urgently than before, because of the failure since Rio on this front. This paper provides some suggestions on strengthening the CSD.

Finally, for developing countries a strengthened IEG means the operationalisation of the fundamental principle of “Common but Differentiated Responsibility”, transfer of environmentally sound technology, the provision of new and additional financial resources, and capacity building for meaningful participation in IEG and implementation of sustainable development

CHAPTER TWO

THE CONTEXT FOR IEG: SUSTAINABLE DEVELOPMENT

General

The integral relationship between environment and development was reaffirmed at the highest political level at the United Nations Conference on Environment and Development (UNCED) in 1992. There was also optimism that the Rio Declaration on Environment and Development embodied the goal to establish a new and equitable global partnership.

The over-arching principle of “Common but Differentiated Responsibility” is embodied in the Rio Declaration’s Principle 7:

“States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth’s ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.”

This principle and the two arms of technology transfer, and new and additional financial resources, set the framework for implementing the commitments of UNCED. However, as the 10th anniversary of the Rio Summit approaches and preparations are underway for the World Summit on Sustainable Development in

2002, the prognosis for sustainable development is not good.

Setbacks after Rio: The integration of environment in development has not occurred as anticipated. The environment has deteriorated in terms of biodiversity loss, water crises, global warming, hazardous technologies and worsening desertification. Income inequities between the rich and poor have accelerated, between North and South and within countries. Unsustainable consumption continues, and is even spreading geographically. Financial aid flows have decreased, instead of significantly increasing as promised at Rio.

Transfer of environmentally sound technology on special and preferential terms has not taken place, and instead the WTO's Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement has facilitated Intellectual Property Rights (IPRs) regimes of a higher standard in developing countries, making it more costly to transfer environmentally sound technology, whilst the process of "biopiracy" (patenting by Northern corporations and institutions of biological resources and traditional knowledge originating in the South) continues unabated, if not has worsened.

Since Rio, two major cross-cutting issues have arisen in relation to sustainable development:

- the globalisation process and its effects; and
- the governance of economic, social and environmental issues at the global level.

The process of globalisation with economic liberalisation as its hallmark, has created further environmental harm, increased concentration of wealth in a handful of big corporations in each industry, and undermined the authority and autonomy of national governments to make policy.

Instead of fulfilling its commitments under the Rio Declaration, Agenda 21, and MEAs, the North has turned to the World Trade Organisation in particular, to promote and obtain international rules that are increasingly acknowledged to be counter to the Rio spirit, principles and commitments.

The unilateral rejection of international agreements, including MEAs, by some countries is yet another move that jeopardises the multilateralism needed to meet the challenge of sustainable development.

The Bretton Woods institutions, especially the IMF, have also promoted and drawn many Southern countries into macro-economic policies that are adverse to the environment, destabilise national economies and create social disruptions.

The governance systems of the Bretton Woods institutions (where voting rights are weighted according to share of equity and thus in favour of developed countries) and of the WTO (where the developing countries have yet to enjoy full and effective participation) can itself be argued as a major obstacle to sustainable development.

Addressing the changes to these governance structures must therefore be part of the broader improvement of international governance so that a strengthened IEG can indeed help to achieve sustainable development. These institutions now have dominant roles in establishing global opinion and policies in economic and social issues (and to some extent also in environmental issues).

Thus there is an urgent need to make the governance and decision-making systems of the financial and trade organisations more open and transparent, and their policies and decisions should be more openly and intensely reviewed. The CSD should be strengthened to take on the role of reviewing their policies from the perspective of sustainable development. A regular review could be done at the annual CSD sessions.

The nexus between environment and development under the rubric of “sustainable development”

Any discussion or consideration of environmental issues, and more importantly the aspect of governance, should be done in the context of sustainable development. The environmental crisis is largely caused by unsustainable production and consumption patterns of developed countries, upon which developing countries have formulated their development model. At the same time, the market-oriented economic system has created more inequities between rich and poor countries, and within countries.

Poverty remains a major problem in many developing countries. Many developing countries are worse off today than they were 30 years ago. Thus combating poverty remains a top priority.

Even those few countries that have achieved high growth rates, as in East Asia, have found that the international economic rules and policies to liberalise trade and finance (largely determined by the more powerful countries and their institutions) can threaten a country's ability to control its own economy. The Asian crisis was a classic awakening to the need for sound economic policies and a supportive/stable international environment.

The development dimension has not been properly integrated in the substantive work of the CSD or in the implementation of the MEAs. Increasingly, it is clear that unless we deal with the development dimension, the environment will not be adequately protected nor natural resources be managed sustainably.

There is a need to operationalise the UN commitments and programmes (sustainable development, environmental agreements, social development, Financing for Development, etc.) and to ensure that the WTO agreements and Bretton Woods institutions are supportive of sustainable development. The WTO governance is openly acknowledged to be undemocratic and inequitable, and the

agreements ridden with imbalances.

At the same time, structural adjustment programmes and the conditionalities of the IMF also run counter to sustainable development. From Africa to the new crisis countries such as Indonesia, the IMF has contributed to more unstable economic and social conditions that in turn put pressures on resource management and the environment. Making the links between IMF conditionalities, reform of the international financial system and sustainable development is therefore important.

The principle of “Common but Differentiated Responsibility”

The fundamental UNCED principle of Common but Differentiated Responsibility (Principle 7 of Rio Declaration) recognises the primary responsibility of developed countries in causing the environmental crisis with their unsustainable production and consumption. At the same time these countries, and especially their big corporations, have disproportionately reaped the benefits of the world’s resource exploitation and economic growth.

Thus an equitable framework is needed for the transition to sustainable development, with the developed world bearing the larger share of adjustment, and within those societies, an equitable sharing of such an adjustment.

The MEAs that were concluded at UNCED also embodied this principle. However, the implementation of this principle is far from satisfactory. The Kyoto Protocol, for example, is a legal instrument that operationalised the principle, but the tremendous resistance by some Northern countries, and the outright rejection by the Bush Administration of the Protocol is a denial of the principle.

The IEG discussions are reaffirming the principle, but 10 years have passed. Developing countries now need to ensure that a strengthened IEG will commit to operationalising the principle throughout the UN system, in all MEAs, and in financial institutions and mechanisms.

Financial resources and the reform of the international financial architecture

The developed countries' commitment to contribute Overseas Development Assistance (ODA) targeted at 0.7% of their GNP for ODA and to provide new and additional funds to implement Agenda 21 and the "Rio Conventions" has not materialised and worse, ODA has fallen drastically since 1992. Private sector investment has overtaken public financing and with this, profit maximisation has driven financial flows. This leaves most developing countries out of the recipient list.

The tremendous increase in speculative and short-term financial flows facilitated by financial liberalisation of developing country economies and the advent of computer technology has also introduced new instabilities into the financial system, as experienced in the Asian crisis.

Reform of the international financial architecture became an agenda of concern but this has slipped from the priorities of the North. The Financing for Development event in the UN scheduled for 2001 can provide valuable inputs and impetus to focus political profile on financing sustainable development, as well as on international financial governance.

The Global Environment Facility (GEF) is the major dedicated global environment fund, and is the financial mechanism for key MEAs. The GEF has a 3-year cycle for replenishment but the amount

is far from adequate as more MEAs come into being.

Developing countries have always promoted separate funding mechanisms for individual MEAs, but since the Montreal Protocol on Ozone-Depleting Substances, the North has consistently rejected this proposal. But while they insist on the GEF, the contributions are not sufficient to meet the needs.

UNEP's Environment Fund is the other global source. However, these are highly inadequate. The UNEP Fund needs to be secured and predictable. A system of assessed contributions for the administrative costs would go far in that direction. Developed countries should contribute the operational costs, in accordance with the principle of Common but Differentiated Responsibility.

The South needs to continue to get Northern commitment and action to ensure funds for implementation of MEAs, Agenda 21 and other programmes. Secondly, the South needs to ensure that it has full and meaningful participation in the development of policy and law in environment and development. Thirdly, the South needs to have meaningful participation in the governance structure of financial institutions and mechanisms.

The restructuring of the GEF after the pilot phase and as a mandate of UNCED provides an important precedent for the South to explore a stronger role in financial governance. The GEF governance currently marries the one dollar one vote system of the Bretton Woods institutions with the more democratic UN system of one country one vote. Currently, the guidance from the respective Conference of the Parties (COPs) to the MEAs is quite general and even vague in some instances, and so the GEF plays a more significant role in determining projects and even policies. The South needs to assess whether its participation in the GEF governance is satisfactory, and consider ways to be more involved in the governance of funds targeted for the environment.

The transfer of environmentally sound technology

The North's commitment to transfer technology on special and preferential terms to the South is entrenched in the UNCED agreements and many MEAs. It is a key element of sustainable development. However, this commitment essentially remains on paper.

The current dominance of private corporations in technology is a major factor. The impact of TRIPS is also being felt now as developing countries find that these rules tend to put much of the environmentally friendly technologies and products beyond the reach of developing countries. Without the necessary technologies, the development as well as environmental prospects of the South are undermined.

At the same time, developing countries need to build the capacity to assess technologies when these are available and accessible. Experiences of the North dumping obsolete or hazardous technologies in the South require vigilance and assessment capacity. The CSD in its first session stressed the need for technologies to be assessed for their health, safety, environmental, economic and social impact before they are transferred.

The WSSD thus needs to put technology transfer as a key issue. In the resumed 6th meeting of the Conference of the Parties to the UN Convention on Climate Change in Bonn, a mechanism for technology transfer was successfully obtained by developing countries.

Developing countries should promote the establishment of an inter-governmental body on technology as an output of WSSD since this is a crucial cross-cutting issue in MEAs and sustainable development programmes. That body can be mandated to work towards a general agreement on the transfer of environmentally sound technologies. UNEP can play an important role in building capacity for technology assessment.

Environmental integrity

It is a need to ensure the integrity of the environment, thereby recognising environment itself as a critical issue. The development dimension is another side of the pyramid of sustainable development (economic, social and environmental sustainability). It is undisputed that to ignore the environment would ultimately undermine development efforts.

Furthermore, it is the South that would suffer more harm and loss if the environment is compromised for short term or unsustainable development: this is due to the fact that the majority of the world's population is in the South, and the richest biological diversity as well as the most vulnerable ecosystems are also located in the South. One stark example is the impact of global warming and the resulting climate changes, where the developing countries will be the worst victims (Third Assessment Report of the Intergovernmental Panel on Climate Change, 2001).

Since environment is one of 3 pillars in sustainable development, the IEG process should focus on the environmental component, while keeping the context of sustainable development as the overarching framework and objective. This means that environmental issues must be viewed through the lens of sustainable development, thus mainstreaming the spirit and principles of UNCED. It is in this approach that there can be renewed North-South confidence, good faith and goodwill to honestly and meaningfully strengthen IEG.

CHAPTER THREE

BASIC IEG PRINCIPLES AND WSSD 2002

The Malmo Ministerial Declaration stressed that the WSSD “should review the requirements for a greatly strengthened institutional structure for international environmental governance based on the assessment of future needs for an institutional architecture that has the capacity to effectively address wide-ranging environmental threats in a globalising world”.

The issue of IEG is thus likely to emerge as a key issue in the WSSD process. There is legitimate concern that the UN system is weak in ensuring compliance with environment agreements compared to the powerful WTO with its enforcement capabilities and the IMF/World Bank with their ability to attach conditionalities with loans. Secondly, there is also concern that the proliferation of MEAs is creating fragmentation, diffusion and overlap in governance structures. National implementation is weak in many cases because of highly inadequate financial resources.

Coherence and effectiveness are the stated reasons for some governments, especially from the developed countries, to put IEG as a central WSSD issue. A World Environment Organisation (WEO) has been proposed as one option.

While there may be merit in the concept, there must be clarity regarding the purpose and the balance of power in the decision-making process of any proposed institution or framework. Otherwise, the inequities and weaknesses in current IEG that are against the

interests of developing countries will be made worse.

The overwhelming majority of members of the Open-ended Intergovernmental Group on IEG do not favour a new institution like the WEO, and the evolutionary approach is the preferred option. Governance is a broad concept and needs more analysis, but the key principles should be:

- sustainable development as the context for such governance
- Common but Differentiated Responsibility
- meaningful participation of developing countries in IEG.

UNCED was a milestone in making the integral links between environment and development, and the WSSD has to strongly reaffirm that important integration. The Social Development Summit subsequently put in place the third pillar, i.e. the social dimension. A WEO is thus in danger of slipping back the agenda of sustainable development.

The IEG process under the auspices of UNEP is mandated to provide inputs to the WSSD. This is an important opportunity for developing countries to raise key issues in sustainable development, and to review globalisation and its institutions (WTO, Bretton Woods Institutions, OECD, G7) as the framework for analysing the obstacles to sustainable development. Thus the IEG inputs to the WSSD should be in the broader context of sustainable development and International Sustainable Development Governance.

CHAPTER FOUR

SOME ELEMENTS IN APPROACHING IEG AND SUSTAINABLE DEVELOPMENT GOVERNANCE

(1) General

The goal of a strengthened IEG is to achieve sustainable development, and IEG is part of the broader effort needed to strengthen international sustainable governance.

At the moment, environmental governance at the international level is fragmented, diffused and sometimes overlapping. This can be generally classified as follows:

- Multilateral Environmental Agreements (MEAs)
- UNEP
- Other international agencies that address the environment, such as FAO, UNDP, UNCHS (Habitat), IMO, the World Bank and Regional Commissions.
- CSD.

Each of these seats of governance has 3 components:

- Membership of States
- Representative governing structure comprising State members (COPs, Subsidiary Bodies, etc).
- Secretariat.

In order to achieve more harmonisation and rationalisation, we will need to consider each of the 3 seats of IEG and review their

strengths, weaknesses and effectiveness. Then we need to examine the relationship (legal and operational) of UNEP with the respective secretariats of the MEAs, other environment-related agencies, the CSD and the GEF. A more thorough assessment from the perspective of developing countries should be done.

For developing countries in particular, the proliferation of MEAs and fora for environment and sustainable development has created strains and even burdens in terms of participation at international and regional meetings, national reporting, national implementation (policy and law formulation and programme/project implementation). Capacity building and adequate financing for developing countries are thus also key aspects of IEG.

(2) Enhancing UNEP

The first meeting of the Open-ended Intergovernmental Group of Ministers or their Representatives on IEG in April 2001 unanimously supported the need to strengthen UNEP and ensure enhanced, more reliable and more predictable funding for UNEP (UNEP/IGM/1/3). This was already affirmed in the Nairobi Declaration on the Role and Mandate of UNEP in 1997 (Governing Council Decision 19/1).

UNEP remains the UN system's main coordinator of environmental affairs. However UNEP has been unable to take on the task of global environmental champion and protector, due to constraints in finances and personnel, and also due to its rather limited mandate. Strengthening the capacity of UNEP is thus a very important priority in improving International Environmental Governance.

In which ways and within which framework should UNEP's strengthening take place? This has been a major area of the current IEG discussions. Some countries wish to see UNEP become the sole representative of environment in the UN system or be-

come a specialised agency or even evolve into a World Environment Organisation (WEO).

However there is a legitimate fear that if only UNEP and its environmental role is enhanced (for example through the WSSD process), then the other elements of sustainable development (economic and social) will be relatively neglected and that the outcome will therefore be unbalanced, or (even worse) that the development and equity aspects in handling environmental problems will be downgraded, to the detriment of developing countries.

Thus, any exercise in enhancing or strengthening UNEP must take these concerns seriously and build them into any design of environmental governance. This can be done in at least two ways:

- **mainstreaming sustainable development (in particular the economic, social, developmental and equity aspects) into UNEP's environment work and into the process and substance of UNEP's enhancement; and**
- **simultaneously enhancing the economic, social and developmental aspects in other UN institutions and in the UN overall. For example, this calls for the corresponding strengthening of the capacity and role of the CSD so that it can better play its integrative function.**

The fundamental issue remains: the failure to implement sustainable development commitments under Agenda 21 and the MEAs is a substantive and political issue. IEG can facilitate implementation but is not an end in itself.

Governance is also not just about coordination and synergies at the functional level. It is equally, if not more important, about decision-making power which is rooted in meaningful participation in an open, transparent and democratic manner.

Moreover, improving environmental governance is only one side of the solution; improving economic and social development governance, and the integrated sustainable development governance are the other aspects that have to be acted on simultaneously.

Within this contextual framework, UNEP has a key role in IEG, and a clearer and better defined UNEP is needed. However, it is only one component of the whole sustainable development architecture.

By giving UNEP the primary responsibility for the environment, the environmental integrity of sustainable development can be given its proper place. This was established in the 1997 Nairobi Declaration, adopted by the UNEP Governing Council and endorsed by the UN General Assembly, that UNEP is “the principal United Nations body in the field of the environment”.

It is the “leading global environmental authority that sets the global agenda, that promotes the coherent implementation of the environment dimension of sustainable development and that serves as an authoritative advocate for the global environment”. But it may be premature to assign UNEP the sole responsibility for environment policy and decision-making.

The suggestion that the Governing Council of UNEP be made universal could be considered. The Global Environment Ministers Forum is universal (hence its political value), and expanding the Governing Council would be an important step in enhancing UNEP.

Fulfilling the Nairobi Declaration’s call for predictable contributions to the UNEP Environment Fund would certainly be an important part of enhancing UNEP. It would be timely and beneficial to consider a system of assessed contributions for the administrative costs, while the operational costs, in accordance with the principle of Common but Differentiated Responsibility, should be contributed by developed countries.

But at the same time, the policy and priorities of UNEP also need to be clearly pro-sustainable development and pro-developing countries. Meaningful participation by developing countries in UNEP governance and decision-making would be necessary. Thus, there is a need to assist developing countries to boost their capacity to play their role in governance effectively.

A strengthened UNEP (with a better defined relationship with the CSD) can relate to trade and environment issues, including those that arise at the World Trade Organisation. Trade and environment discussions should take place at the CSD, and in UNEP (from the deliberations of the Governing Council to the work of the Secretariat), and not just at the WTO.

These discussions, held in the appropriate fora, can result in:

- (i) clarifying, from the viewpoint of environment and sustainable development, some of the issues in the interface between trade, environment and sustainable development. For example: the issue of biodiversity, traditional knowledge, local community rights and intellectual property rights.
- (ii) providing inputs and reference points to the work of the WTO and other international agencies on trade, environment and sustainable development;
- (iii) initiating further MEAs that are rooted in the context of sustainable development; and
- (iv) enhancing the operationalisation of sustainable development at the national and regional levels.

There is a concurrent need to embark on capacity building in the area of trade and environment, so that the South can be better positioned to conduct national studies and assessments on the nexus between trade and environment and its implications for sustain-

able development at the national level. This in turn feeds into increased capacity to address trade and environment issues at the international level where countries from the South can then be better prepared when participating in negotiations.

Another area of importance is trade rules and the environment. One example of the existence of contradictions between WTO rules, environment and sustainable development is the TRIPS Agreement, currently a subject of intense debate at the WTO.

The relationship between MEAs and WTO rules also needs to see a strengthening of the integrity of the MEAs. While there is consensus that there should be no hierarchy, it is also a fact that conflicts may arise. Since the WTO agreements go beyond trade in goods, and is operating in areas of domestic policy, there are serious implications for the development agenda pursued by the South.

There are also instances where bilateral pressures are asserted so that the MEAs are undermined in favour of the WTO rules. Thus in IEG, great care must be taken to ensure that the arbiter of MEAs and their national implementation is not the WTO. An enhanced UNEP, in concert with other strengthened components of the IEG can provide a needed balance in the overall global governance system.

Similarly, an enhanced UNEP as part of a strengthened IEG can relate to the IMF, World Bank and regional financial institutions to operationalise sustainable development.

However, for UNEP to play an effective and appropriate role, the Secretariat staff and representatives of the member states in the Governing Council should also increase their capacity to understand and assess the WTO principles and rules (including the positive and negative) as well as the economic and social dimensions of development, so that they can place the environmental issues in a multi-dimensional context and thus be better advocates for both

the environment and sustainable development.

(3) Multilateral Environmental Agreements

(a) General:

The multitude of MEAs pre and post 1992 has resulted in considerable diffusion and overlap, straining financial and human resources for developing countries, which find it burdensome to participate in all the meetings, let alone implement the MEAs at the national level. Decision-making and policy coherence have also suffered.

However, UNCED was a watershed in linking environment and development, thus the MEAs that emerged from the UNCED process and afterwards clearly has sustainable development as the context. Even the Marrakesh Agreement that set up the World Trade Organisation has sustainable development as an objective in its preamble

Just as “sustainable development” should be streamlined in the work of UNEP, it should also be streamlined into the design and work of the MEAs. The participation of developing countries must also be enhanced by:

- (i) affirming that the MEAs and their governance systems are meant to serve sustainable development;
- (ii) ensuring that the sustainable development dimension is integrated in all MEAs as well as regional agreements so that the environmental objective can be in tandem with the development agenda of the countries concerned;
- (iii) integrating the principle of Common but Differentiated Responsibility into the agreements, as many of the pre-1992

agreements do not embody this principle;

- (iv) undertaking systematically, capacity building, which is a foundation to all the MEAs, with identification of cross-cutting needs so that there is no overlap or replication at the national level, and the coherence achieved nationally will be reflected regionally and internationally;
- (v) involving the meaningful participation of developing countries in the governance of the mechanisms for financing MEAs and other environment programmes. The GEF governance structure offers a precedent that can be examined and built upon.

MEAs are vital aspects of IEG as they are international legal instruments through which governments have committed themselves to take actions on the environment. Thus, it is important to make MEAs more effective by:

- (i) reviewing the design, implementation, compliance and effects of MEAs from the view of environment, as well as development.
- (ii) identifying weaknesses and strengths and proposing ways to make the MEAs more effective.
- (iii) encouraging, in principle, greater cooperation among the MEAs (secretariats as well as Members), and working out the modalities.
- (iv) creating a system within the IEG system to identify issues and areas where there are needs but lack of international instruments, and for then introducing new MEAs to cover these gaps and weaknesses.
- (v) clarifying both the roles of UNEP and of the CSD as well as the MEAs, in initiating and facilitating the improvement of MEAs, and the cooperation arrangements among them.

The following discusses some of the issues.

(b) Issue of co-locating MEA secretariats

Discussions are ongoing with regard to co-location of MEA secretariats, programmatic cooperation, and clustering of MEAs either by function or issues. Placing all MEAs under one house is also suggested.

Advantages:

- (i) The environment will get a higher profile in all the options and by “institutionalizing” the importance of the environment, the integration of environment and development can be catalysed when cooperation and coordination can be more effective among the MEAs.
- (ii) Resources can be pooled and used more effectively and economically by having Permanent Representatives to service MEAs and related matters if secretariats are in one physical location.
- (iii) There can be increased coordination and cooperation among developing countries in implementing MEAs and programmes.
- (iv) New MEAs can be spinned off as there will be more continuous and permanent mechanisms for environment and sustainable development work programmes and policies.
- (v) There may be a tidier and more streamlined governance structure with clearer mechanisms.

Disadvantages:

- (i) Since the North has more financial and human resources, there is a danger that centralisation will be dominated by the stronger Northern countries, thus further tilting the IEG against the interests of the South.
 - (ii) From some experiences, there are views that a top-down co-ordination had not worked well, so a clearer purpose and evolution of cooperation between MEAs that is rooted in the sustainable development agenda in accordance with the principle of Common but Differentiated Responsibility may be a preferred direction.
 - (iii) Physical co-location does not in itself necessarily lead to coherence of MEAs.
- (c) Cluster approach to MEAs

A cluster approach to MEAs has been suggested by the report of the UNEP Executive Director (UNEP/IGM/2/6). This could be seen as a first step to eventually housing all MEAs under one structure. Currently, there is some physical “clustering” already as seen in the UNO, UNEP and United Nations Centre for Human Settlements (Habitat) being located in Nairobi and the secretariats of the United Nations Framework Convention on Climate Change (UNFCCC) and the United Nations Convention to Combat Desertification (UNCCD) in Bonn.

Given the common and cross-cutting issues that are also evident, these clusters have been working towards more cooperation, though not fully at the functional level yet. When there are common areas, physical location facilitates functional cooperation and resources can even be shared. With corresponding national and regional cooperation along the same lines, this can improve the

implementation of the respective MEAs.

Experiments in clustering issues and coordinating the activities under the respective MEAs may be a useful beginning, and this can then be reviewed. The EMG could provide a mechanism, while the Global Environment Ministers Forum can make policy decisions.

However, given the independent governance structures of each MEA, if a country is Party to one MEA and not another, or Party to an MEA but not to a Protocol under that MEA, difficulties will arise. This was seen in the debate on financial resources at the second meeting of the UNFCCC Conference of the Parties (COPs) 6 when the fund under the Kyoto Protocol was being negotiated.

Co-location of MEA meetings (including the COPs sessions) has also been suggested. For many developing countries, the same officials attend a number of the key meetings. This may reduce the incidence of travel and promote some degree of coordination where the substance of the meetings shares common grounds. However, since these delegations are often one or two persons, it would entail a long session, which creates its own pressures and does not enhance the quality or effectiveness of participation.

(d) Strengthening monitoring and compliance

In contrast with the multitude of detailed legally binding rules and the strong dispute settlement system of the WTO, the MEAs have weak or no compliance regimes.

Advantage:

To ensure that the North meets its commitments (on its own environment obligations, and on financial assistance and technology transfer to the South, etc), an effective monitoring and compliance

system can contribute to systematic monitoring, transparency in implementation, including deadlines and targets.

Disadvantage:

If, for a variety of reasons, the negotiations of an MEA do not result in a fair and equitable agreement for the South, a strong compliance regime would operate to the disadvantage of the South. A “bad” agreement coupled with strong enforcement would be the worst of both worlds. Where a compliance regime is agreed upon, there must also be provisions for the developing countries to play a full and effective role in the governance and operation of the regime.

In the second meeting of the Open-ended Intergovernmental Group of Ministers or their Representatives on IEG, there was a suggestion that a body be created “with a supervisory role to review reports and reveal non-compliance” (UNEP/IGM/2/6 para. 45). This should be considered with caution.

The controversial negotiations on the compliance system for the Kyoto Protocol that took place in Bonn in July 2001 reveal the position of key Northern countries. Those countries may not favour a supervisory body that constitutes a fair representation of Parties, including developing countries, to monitor the compliance of developed countries’ commitments.

Caution must be exercised that compliance systems do not result in only a monitoring of developing countries. The developing countries should thus draw up conditions and modalities of a monitoring and compliance system that can protect and promote its interests.

(4) Strengthening the CSD

Since sustainable development is the context and environmental integrity is one objective, the role of the CSD is crucial in integrating the environmental and development aspects of sustainable development. The relationship between UNEP and the CSD also needs to be more clearly defined, especially if UNEP's role and activities are to be enhanced. Indeed, the strengthening of UNEP must be accompanied by a strengthening of the CSD.

Given the very ambitious outcome of Rio in terms of Agenda 21, high expectations had been placed on the follow-up process and in the CSD as the coordinating body. The CSD has been a very useful meeting place for government officials, scientists and NGOs involved in sustainable development issues to share their views and experiences.

Though the quality of the various CSD sessions has been variable, the CSD is an important forum for the linkages among the 3 pillars of sustainable development. In a number of cases, critical issues have been discussed and debated in a transparent and open manner, in the multistakeholder dialogues and the High Level Segment sessions. The multistakeholder dialogue itself is an innovative mechanism, not only for increased civil society involvement, but also for providing wide-ranging inputs to the official process.

However, the CSD has not lived up to the high expectations of being able to help countries to implement the Agenda 21 commitments. The sectoral issues come up for discussion only once in some years (on a rotation basis), whilst there has been no progress (or worse) in the cross-cutting finance and technology issues. The CSD was also intended to engage other sectoral ministers (other than environment ministers) so that the linkages between development and environment can be forged in substance and action.

This has not been very successful so far. The long gaps between the CSD's annual sessions also do not lend urgency to many of the issues.

Very importantly, the capacity of the CSD secretariat is also limited, as the relatively few staff would be unable to strongly follow up on the decisions of the CSD sessions.

In the run-up to WSSD 2002 an assessment of the CSD and its capacity and mechanisms would be useful, with a view to strengthening them. The lack of binding decisions in the CSD is both a strength and a weakness. Its non-binding nature frees the process from a negotiation atmosphere and has allowed some important free flowing debates. However, for the same reason, decisions that are made are not monitored for compliance. The political value has potential but this will only be useful if the CSD engages robustly with other ministers and institutions.

An enhanced UNEP can strengthen the environmental pillar of the CSD, but a similar strengthening is needed for the institutions dealing with economic and social affairs (including UNCTAD) and the institutions that are tasked with integrating environment and development. The role of the Department on Economic and Social Affairs (DESA) needs to be revitalized to better serve the CSD.

If the CSD is to play the significant role expected of it after UNCED, at the least, the Secretariat has to be greatly strengthened and it should play a dynamic role continuously throughout the year. Whilst the full CSD membership could meet at the annual session, it could also work through a smaller representative body of the CSD (such as a vastly expanded bureau with regional representatives selected by the regions) which should meet regularly and have its deliberations and decisions done in a transparent manner and in a way where all countries can also participate (for example by attending the meetings although the representations are through the regional representatives). Needless to say, significantly more

resources and appropriate personnel would be needed by the CSD secretariat to play the expanded and more dynamic role envisaged here.

The role of NGOs and other civil society groups should also be enhanced. The modalities for all these have to be worked out in detail. Finally, the specific roles of an enhanced CSD, especially the functions of integrating environment and development, should be spelt out.

(5) Global Environment Facility

The governance of the GEF is unique in that it was restructured, as part of the UNCED mandate, to be more equitable in terms of participation by developing countries. An assessment of whether the reality has meant increased developing country participation would be useful. This is important since guidance from MEA COPs is general and even vague, leaving the details to be determined by the GEF.

Since UNEP is an Implementing Agency of the GEF, an enhanced UNEP would presumably lead to more involvement from the UNEP Governing Council, in cooperation with the MEA COPs. At the moment, the World Bank has a more dominant role compared to UNEP and UNDP as Implementing Agencies, and this will need to be changed in a strengthened IEG, in which there should be a better balance in the influence exercised by the three agencies.

The mandate of GEF is to finance programmes and projects that create "global" environmental benefits. This and the approach of "incremental costs" require a review. In many cases, the interface between local, national and global benefits are indistinguishable. Experience has also shown that the distinction is artificial in many cases. Since developed countries reject independent funds for sustainable development under the MEAs, the GEF should accord-

ingly be reformed to meet the wider needs of sustainable development.

An enhanced UNEP can lead the way for domestic environmental dimensions to be integrated into the global level, again with sustainable development as the context. In short, the GEF donors appear to prefer funds to be channeled to projects that relate to the "global environment," whilst it would be especially beneficial to developing countries that the criteria for funding be extended to projects that benefit the "local and national environment" (even though these are in areas not demarcated as having a link to "global benefits") and also extended to the "development components" of projects.

(6) Capacity building

Capacity building is crucial for the South to participate fully and meaningfully in a strengthened IEG: first, to negotiate effectively in international meetings, and secondly, to implement commitments at the national level.

The fragmentation and overlap at the international level is reflected nationally. The difficulties related to national reporting are a clear example. Building capacity at the national level, with international financing, so that policy and inter-agency coherence can be increased would go a long way to contributing to international coherence.

(a) Capacity building of governments

Southern officials and experts are strained in having to participate in the numerous regional and international meetings, including the meetings of the COPs and Subsidiary Bodies of MEAs, CSD, UNEP and other international agencies.

National reporting under the multiple processes is also a growing problem due to the fragmentation and overlap that is reflected at the domestic level with different agencies handling different issues/MEAs. National implementation of the various MEAs and environmental programmes also run into lack of financial and human resources.

There is urgency for adequate, predictable and timely financial resources and to that end the unfulfilled commitments of the North under Agenda 21 and the MEAs should be met.

Secondly, clear identification of the content of capacity building is needed, and priority areas include: research and policy formulation; law formulation; capacity to participate meaningfully in international negotiations; programme and project formulation and implementation.

(b) Capacity building of civil society

The civil society of the South must be assisted to play a greater role in international governance. This includes NGOs, community organisations, women's groups, indigenous peoples' organisations, youth and research institutions.

As seen from the IEG process (and similar ones in other arenas), research, data generation, publications, analyses and policy prescriptions are dominated by Northern research institutions and think tanks. This was also noted in the report of the Environmental Management Group at its second meeting (UNEP/IGM/2/INF/4).

There is untapped potential in the civil society of the South. With appropriate capacity building, strong alliances can be forged at the national, regional and international level to intensify knowledge, strengthen research and policy formulation to promote the per-

spectives and positions of the South. The momentum for civil society involvement started in UNCED and has expanded since then.

A stronger civil society in the South actively networking with like-minded Northern counterparts and participating in IEG would strengthen the position of the South considerably.

With regard to private-public sector collaboration, there is a need for ensuring independence of public policy and governance from undue influence by the private sector, particularly transnational corporations. The controversy surrounding the UN Global Compact should be taken note of, if the credibility of the IEG is to be maintained.

(c) The role of experts

Whenever experts are called for, under the MEAs or other programmes and projects, the overwhelming number of candidates is from the North. This imbalance is partly due to lack of capacity in developing countries, but in many instances, there is expertise in the South but this is not adequately integrated into the international and regional levels. There are also experts from the North who can contribute significantly to developing countries, but they are often not in the "global experts business".

Thus there should be caution regarding the suggestion at the second Open-ended IGM meeting to consider the "creation of a system of international expert teams to provide support to countries in implementation" of MEAs (UNEP/IGM/2/6 para. 45).

Rather, a better system could be established whereby civil society groups in the developing countries are asked to identify the wider expertise available and appropriate for the interests of developing countries and sustainable development.

(7) Global Environment Ministers Forum

The initiative to set up the GEMF has given added profile to environmental policy. Since these are the ministers responsible for national environment policy and also for most of the MEAs, the Forum could serve as an important high-level policy coherence point. Whilst the GEMF is responsible for environment matters, it is important that the discussions and decisions are made fully taking into account the context and principles of sustainable development.

By facilitating more interactions among Environment Ministers, the Forum can generate ideas and proposals that can input into and enhance the role of the CSD's High Level Segment. This could be made one of the specific functions of the Forum.

The Forum could also receive "early warning alerts" of new and emerging environmental problems and threats, and decide on actions; review major issues and identify whether new mechanisms including MEAs should be established for dealing with them (if there is an absence of adequate mechanisms).

Reports of initiatives and plans can be presented to the CSD, where the cooperation of Ministers dealing with development or finance can be sought for more effective implementation of the plans. (For this interaction between political leaders from different Ministries, the CSD must be able to attract the presence of Ministers from various sectors.)

(8) Coordination among agencies

In order to achieve better coordination or cooperation of the various international agencies at the level of secretariats, an Environment Management Group has been formed, coordinated by UNEP.

This group has the potential of sharing information and experiences, identifying areas where work is going on well and areas where work is not going on well or not at all, agree on division of labour, undertake joint activities, and coordinate work so that the UN system works more effectively overall.

Whether these are the functions, and how far the EMG has planned its work, should be further discussed in the context of the IEG debate. Civil society groups should be allowed to participate or at least to contribute to the work of the EMG.

(9) Regional cooperation

There is increasing effort to strengthen regional cooperation, and there are many positive experiences. This takes place in the implementation of MEAs, the formulation of regional agreements under an international framework convention, or “bottom-up” agreements initiated by the regions themselves. Increasing negotiation capacity through regional efforts is also taking place, and again there are positive results.

The strengthened IEG should therefore comprise support for increased regional cooperation and capacity building. This can result in sharing of resources (e.g. regional clearinghouse as required under some MEAs; experts from within the region).

The Regional Commissions of the UN can play an important role, so revitalizing these Commissions where they are not active, would be useful. However, there should be the appointment of dynamic officials in order for this to be possible.

INTERNATIONAL ENVIRONMENTAL GOVERNANCE: SOME ISSUES FROM A DEVELOPING COUNTRY PERSPECTIVE

The failure to integrate environment and development since the United Nations Conference on Environment and Development (UNCED) calls for a strengthening of International Environmental Governance (IEG). In this Working Paper, Third World Network contends that instead of setting up new institutions to improve IEG, an evolutionary and incremental approach should be taken. Substance and goals should precede form. There should be clarity of purpose and mechanisms for coordination and cooperation among Multilateral Environmental Agreements (MEAs) and the various UN entities. The relationship between the UN system, the Bretton Woods institutions and the World Trade Organisation should also be clarified, with sustainable development as the overriding objective.

It is imperative that the context for strengthening IEG be sustainable development, with the full integration of three pillars: environment, economics and social. This process should also become a part of the broader framework and goal towards a strengthened International Sustainable Development Governance that operationalises the fundamental principle of “Common but Differentiated Responsibility”. This would serve as valuable input for the World Summit on Sustainable Development, 2002.

Required actions include enhancing the United Nations Environment Programme to fulfill its key role as the “principal UN body in the field of the environment”; ensuring that the Global Environment Ministers Forum has the political profile to help bring cohesion to MEAs; improving the synergy between the Environmental Management Group and the Intergovernmental Group on IEG; and strengthening the Commission on Sustainable Development.

TWN ENVIRONMENT & DEVELOPMENT SERIES

is a series of papers published by *Third World Network* on the increasing challenges to the relationship between the environment and development, in particular those posed by the process of globalisation, liberalisation and new technologies. It aims to advance a Third World perspective of analyses, strategies and proposals for reforms of policy, practice and institutions, at both the international and national levels — towards greater social justice, equity and ecological sustainability.