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Potential benefits for developing countries – Design options for a UNEO

Introduction

Environmental threats predominantly affect developing countries. Developing countries and their specific concerns therefore play a crucial role within the discussions surrounding the reform of the international environmental governance system.

This paper will take up the current debate on strengthening the environmental voice at the institutional level and will survey the potential benefits of up-grading the United Nations Environment Programme (UNEP) to a United Nations Environment Organisation (UNEO) and address the specific needs of developing countries. To highlight these potential benefits in some detail, the paper will briefly discuss the *status quo* (part 1) and possible design options for a UNEO (part 2).

1 Initial Position: Where we are

1.1 Challenges for developing countries in implementing environmental policies

Developing countries face a variety of challenges in their efforts to implement environmental policies, most notably:

- In many cases, developing countries lack capacities:
 - to build and maintain strong environmental institutions;
 - to set up effective environment monitoring and implementation schemes;
 - to create a strong scientific knowledge base for environmental policy;
 - to fully integrate environmental concerns into Poverty Reduction Strategies and other related documents.

- In light of the great number of multilateral environmental agreements, the quantity of decision-making bodies for international environmental governance has steadily increased, posing additional challenges for developing countries. These specific challenges include:
 - to undertake and follow the implementation of all agreements and conventions at the national level;
 - to ensure coherence among strategies deriving from different agreements and strategies;
 - to negotiate and participate actively in the decision making processes;
 - to respond to the growing demand of monitoring and reporting.

1.2 Existing instruments and shortcomings

In the past decades, the international community has created a number of bodies and instruments to tackle environmental degradation at a global scale, which include among others:

- As the principal actor for the environment within the United Nations, **UNEP** is entrusted with responsibilities for policy co-ordination as well as capacity building and technical support to developing countries. UNEP also supports international negotiations on environmental issues and provides credible scientific information. With its modest resources, UNEP has operated a remarkably varied and important set of programmes.
- **Multilateral Environmental Agreements (MEAs)** demonstrated their flexibility in accommodating divergent circumstances. Several MEAs provide financial resources for capacity building, spur technological transfer and the creation of scientific knowledge. A number of MEAs also comprises financial mechanisms.
- By drawing on its network of country offices and country-specific experience, **UNDP** assists developing countries in developing effective policies and institutions, such as integrating environmental objectives into national development agendas or elaborating national environment strategies.
- The **GEF** operates on the basis of collaboration and partnership among three implementing agencies, UNDP, UNEP and the World Bank. It provides grants to developing countries for projects that benefit the global environment (biodiversity, climate change, international waters, land degradation, the ozone layer, and persistent organic pollutants). Capacity building has become a significant GEF focus.
- The **World Bank** makes strong efforts in investment financing, and contributes, among others, to the development of national environmental policies.

The system of international environmental governance in place contributed to developing countries' progress in establishing national institutions, legal frameworks and technical capacity to address environmental issues. However, there appears to be wide concurrence that the current system has serious shortcomings. In respect to the challenges faced in particular by developing countries, the most important shortcomings are:

- **Lack of Resources:** Developing countries require continued support in terms of

technology support and capacity building initiatives to respond to environmental challenges. However, financial resources allocated to environmental issues are scarce. To add to the problem, a significant part of the available resources come from voluntary contributions and are not predictable.

- **Lack of Co-ordination:** The current international system comprises a wide variety of institutions and activities that are sometimes uncoordinated and it does not adequately take advantage of synergies. While many different actors have their own mandates, implementation of these mandates is often not pursued in a manner that ensures optimum use of scarce resources available. The development of a large number of MEAs has partly resulted in contradictory elements, in particular on interconnected issues.

UNEP is responsible for providing general policy guidance for the direction and co-ordination of environmental policy within the United Nations System. However, its resources and authority are generally regarded as insufficient to adequately fulfil this mandate. Also the Commission on Sustainable Development has not been able to overcome the co-ordination deficits.

- **North-South-Imbalance:** Some developing countries perceive the current system of international environmental governance as unbalanced in the sense that the agenda is mainly driven by Northern countries and not sufficiently tailored to the specific needs of developing countries.

2 Design Options for a UNEO

2.1 UNEO as an UN Specialised Agency

UNEO as a direct successor of UNEP would continue to have its headquarter in Nairobi, Kenya. It is envisaged as a UN specialised agency. Accordingly and in line with Article 57 of the UN Charter, UNEO would be established on the basis of an intergovernmental agreement which provides for the basic provisions of the organisation. This founding agreement – while open to all UN members – would not require the consent of all UN members. Yet, consensus would, of course, be preferable.

Save the specific requirements of the UN Charter, states are in principle free to negotiate the content of such an agreement. Additionally, the Economic and Social Council (ECOSOC) enters into an agreement with the specialised agency which is subject to approval by the General Assembly and defines the relationship between the specialised agency and the United Nations.

According to Articles 63 and 64 of the UN Charter, the ECOSOC may co-ordinate the activities of the specialised agencies and take appropriate steps to obtain regular reports from these agencies. Like most other specialised agencies, UNEO's founding document would foresee that the agency would respect the resolutions of ECOSOC and the General Assembly. UNEO would work within the UN system.

The working group may wish to assign experts to conduct a study on the legal implications of transforming UNEP into a UNEO.

2.1.1 UNEO: Its institutional options

Although the institutional design of UN specialised agencies has in practice various common features, states founding UNEO can choose from a range of institutional options:

- UN specialised agencies have a plenary organ which provides overarching political guidance, approves the budget and the work programme. Although this structure is standard for all specialised agencies, the details of the plenary organ's mandate leave room for member states' choice. Additionally, plenary organs are in principle only composed of government representatives from *all* agency's member states.
- UN specialised agencies usually have an executive organ, which ensures that the agency carries out its operative work and adheres to its budget. This organ consists of a limited number of members appointed or elected for a specific term on a rotating basis. Members of the executive organ represent countries, in some cases they act on a trust basis for the entire organisation. The mandate and composition of an executive organ leave a wide range of options for the founding states.
- While a Secretariat functions as the focal point for all the agency's activities, its specific tasks vary considerably in detail. The secretariat is headed by a chief official, who is nominated, appointed and/or elected by the plenary, executive organ or UN secretary general, providing for different degrees of influence of the electing entity over the agency's activities.
- Generally, each member state of a specialised agency has one vote. Decisions are commonly taken by majority; other options provide for double weighted decisions. Accordingly, decisions would be adopted by a specified majority of the members, including the simple majority of a specific country group, such as developing and developed countries. These different options could apply to UNEO's plenary body as well as the executive body.

2.1.2 UNEO: Its budget options

Like other specialised agencies, UNEO would require a budget on the basis of assessed contributions. The budget contributions of specialised agencies are generally not directly linked to the UN budget, providing for various options to differ from the UN assessment scale. Although Article 17.3 of the UN-Charter foresees that the General Assembly "examines the administrative budgets of specialised agencies with a view to making recommendations to the agencies concerned", it is generally agreed that the budget of specialised agencies is in principle independent from the UN budget. Consequently, calculation of mandatory contributions are based on various formula, although many UN specialised agencies base their contributions on the UN scale for the regular budget. In the case of the IMO, for example, member State contributions depend primarily on the tonnage of its merchant fleet. Voluntary contributions could also be additional sources of UNEO's funding.

With regards to expenditures, mandatory contributions could cover the operating budget, with special voluntary contributions being granted for specific projects. However, the

UNEO's expenditures would be primarily born by assessed contributions, making UNEO less dependent on voluntary and earmarked funding.

Consequently, while the exact budget arrangements are subject to the negotiations of UNEO's founding document, UNEO's potential budget arrangement would not entail a new bureaucracy. The new nature of contributions would not change UNEP's current budget administration significantly.

2.1.3 UNEO: options for its mandate

General Assembly Resolution 2997 (XXVII) of 1972 established UNEP and provides for its mandate. The function of the Governing Council includes, among others:

- Provision of general policy guidance for the direction and co-ordination of environmental programmes within the United Nations system;
- Promotion of international co-operation in the field of the environment and to recommend, as appropriate, policies to this end;
- Review of the world environmental situation in order to ensure that emerging environmental problems of wide international significance receive appropriate and adequate consideration by Governments;
- Continuing review of the impact of national and international environmental policies and measures on developing countries in the implementation of environmental programmes and projects, and to ensure that such programmes and projects are compatible with the development plans and priorities of those countries.

According to General Assembly resolution 2997 (XXVII), the secretariat serves as the focal point for environmental action and co-ordination within the UN system to ensure a high degree of effective management. Pursuant to the same resolution the Executive Director is responsible for co-ordinating – under the guidance of the Governing Council – environmental programmes within the UN system, to keep their implementation under review and to assess their effectiveness.

Generally, UNEP's mandate is considered to be broad. UNEO's mandate should consequently derive from this mandate. While only minor changes in UNEO's mandate are envisaged, the following options for an amended UNEO mandate could be considered:

- a more pro-active role to ensure that its technology support and capacity building activities are enhanced;
- better co-operation between UNEO and UNDP, GEF as well as multilateral environmental agreements;
- a higher profile regarding renewable energies and energy efficiency;
- explicit co-ordination of MEAs, without compromising the autonomy of these agreements;

However, like other specialised agencies UNEO should not have enforcement authority. In particular, UNEO should not be vested with the competency to adjudicate

environmental disputes; in this respect, it will essentially differ from the World Trade Organisation.

The individual legal relationships between existing MEAs and the UNEO would be the same as with UNEP.

2.2 UNEO: Potential benefits for developing countries

Against this background, UNEO will help address some specific challenges of developing countries:

- As a specialised agency based on an intergovernmental agreement which would be ratified by all its member States, UNEO would have greater visibility and greater political weight than UNEP, which is only a *programme* based on a resolution of the General Assembly. UNEO would rather act on the same footing with other major players and would, thus, be better equipped to provide political guidance and co-ordination. Although there is no discussion that UNEO would have the legal mandate to enforce its co-ordination activities, it is very likely that this increased political weight would translate into more effective agenda-setting and co-ordination capacities. While maintaining the autonomy of other international environmental institutions, UNEO would help improve the co-ordination of international environmental policies with various benefits for developing countries:
 - UNEO's improved agenda-setting and co-ordination capacities would help facilitate the use of environmental protection as a means of poverty eradication. An enhanced UNEO could better contribute to poverty eradication as it would be better equipped to bring forward the issues of fresh water and sanitation, renewable energies, energy efficiency.
 - The Bali Strategic Plan for Technology Support and Capacity Building foresees that capacity building programmes must be tailored to individual countries' needs based on a bottom-up and demand driven needs-assessment process. The strategic approach to capacity building will result in environmental and corresponding socio-economic improvements in the environment in developing countries.
 - Capacity building and technology support programmes require efficient management of information on current activities. The Bali Strategic Plan identifies "a need to put in place a comprehensive database, accessible to all countries and regularly up-dated, of technology support and capacity building activities with reference and links to all UN agencies and MEAs". This improved system of information management could benefit from a strengthened institution in Nairobi.
 - UNEO could help pool single funds, which would improve capacity building and technological assistance.
 - Although many environmental problems require a global response, regional circumstances must be addressed adequately, entailing among others the need to strengthen existing or future regional offices. UNEO could better ensure that strong regional offices are sufficiently integrated within the general framework of

global environmental governance.

- The negative impact of the current fragmentation of international environmental policies which puts particular pressure on the resources of developing countries, will be addressed by UNEO's enhanced co-ordination capacities.
- UNEO would help trim down the reporting needs and formats, thus improving the ability to channel this information adequately in the decision-making process and addressing the current shortcomings of reporting and submission rate.
- UNEO's institutional structure could be shaped to provide for a particularly strong voice for developing countries in global environmental politics:
 - UNEO's general assembly would ensure complete participation of *all* members. The voting rule, one country one vote, would result in a greater leverage of developing countries in the decision making-process. While under the current structure developing countries have a limited number of seats in UNEP's Governing Council, this number would increase proportionally with global participation under the UNEO structure.
 - UNEO's executive body would be composed proportionally to the overall composition of the new organisation, ensuring that developing countries would have decisive influence over the work of this body.
 - UNEO's director could be elected by the UN general assembly or the organisation assembly, providing her/him with greater political weight. Currently, the Secretary General appoints UNEP's executive director.
- UNEO – as a specialised agency – would provide for a budget based on assessed and, thus, predictable contributions. This system would considerably improve the current funding of international environmental politics. It would allow for better funding of cost-intensive activities with particular benefits for developing countries:
 - Improved resources would allow for better and more country specific capacity building activities.
 - Improved funding could help enhance the scientific basis and early warning, an issue of particular importance for developing countries, which generally lack early warning capacities.
 - Improved funding could be an important contribution to a more efficient and effective transfer of technology and financial aid to developing countries.
 - Improved funding could allow for better involvement of civil society as the lack of resources is a major impediment for southern NGOs to participate effectively in international environmental politics.

3 Conclusions

- The design of UNEO would be subject to future negotiations. Current UN specialised agencies vary considerably, leaving a wide range of options for the design of UNEO.
- UNEO's institutional design could allow for a greater leverage of developing countries over international environmental policies.
- Up-grading UNEP into UNEO would improve the funding of international environmental policies as the organisation's budget would be based on assessed contributions, i.e. a more stable and predictable basis. Cost-intensive activities, such as capacity building and technological support, could particularly benefit from the new budget arrangements.
- Up-grading would mean that UNEO would have the same status as other UN specialised agencies such as the World Health Organisation and the International Maritime Organisation. The up-graded status would show that environmental protection is just as important as other policy areas.
- UNEO in Nairobi would be the only major UN institution with headquarters in a developing country.
- In light of these changes, UNEO would be very susceptible to the needs of developing countries. In many respects, it would be a better tool to further address the environmental needs in developing countries.

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