



Reforming Global
Environmental Governance:
The Case for a United Nations
Environment Organisation
(UNEO)

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WORLD POLITICS IN THE ANTHROPOCENE

Over the last two hundred years, humankind has evolved into a planetary force that influences global biogeochemical systems. No longer is the human species a spectator that merely needs to adapt to the natural environment. Humanity itself has become a powerful agent of earth system evolution. In particular global warming is proceeding rapidly. The snowfields on the Kilimanjaro might melt within a few decades, and the ice cover on the Arctic Ocean has shrunk by over 30 percent since satellite observations begun in 1979. Some scientists warn that major disruptions in the earth system could occur within this century (Steffen and others 2004). The evidence of human influence on all planetary systems is such that stratigraphy experts are prepared today to formally classify the present time as a distinct epoch in planetary history, the “Anthropocene” (Zalasiewicz and others 2008, 6).

This development poses one of the largest governance challenges ever. Policy-makers in the twentieth century gained much experience in managing confined ecosystems, such as river basins, forests, or lakes. In the twenty-first century, they are faced with one of the largest political problems humankind has had to deal with: protecting the entire system earth, including most of its subsystems, and building stable institutions that guarantee a safe transition and a co-evolution of natural and social systems at planetary scale. I call this the challenge of earth system governance, as a new paradigm to describe this particular challenge of planetary co-evolution of humans and nature (Biermann 2007; Biermann and others 2009, 2010).

This governance challenge is a core task for governments and civil society organizations, for local actors and national alliances, for public and private agents alike. Importantly, it is a challenge for effective international collaboration. There are a number of central actors here, including the numerous international organizations, ranging from the many specialized agencies of the United Nations to the hundreds of secretariats to international environmental treaties. International organizations are crucial in many ways (see contributions to Biermann and Siebenhüner 2009; Biermann, Siebenhüner and Schreyögg 2009). They influence governance through funding and administration of research, the synthesis of scientific findings, the development of policy proposals, problem frames and policy assessments, and eventually through the distribution of this knowledge to stakeholders, from national governments to individual citizens. International organizations also influence earth system governance through the creation, support and shaping of norm-building processes. This is in particular the role of the staff of treaty secretariats, which organize meetings, set agendas and report to the conferences of the parties. International bureaucracies are crucial in shaping procedures, providing arenas for negotiations and framing inter- and transnational processes of bargaining and arguing. Last but not least, international organizations are important in helping countries to implement international agreements, for example by supporting administrative capacity in many countries.

In short, international organizations are important agents in earth system governance. Their role is vital. However, recent research also indicates that the overall system of international organizations in this domain falls short of its potential. For one, the community of international organizations and programs in earth system governance is highly fragmented, with most major international agencies running their own environmental programs, along with several hundred larger or smaller convention secretariats, with little effective coordination. In addition, earth system governance is not accountable to one international bureaucracy that is solely devoted to supporting international governance processes in this area. This situation has led to a debate in academia and policy circles on the need for a larger integrated organization, such as a “world environment organization” or a “UN environment organization.” In this paper, I summarize this debate and lay out my own vision on why a UN Environment Organization, based on the current UNEP, is an important building block for successful international cooperation. I believe that 2012 will be a crucial year to set into motion the necessary negotiation and planning processes to upgrade UNEP to a UN specialized agency.

FORTY YEARS OF DEBATE ON A WORLD ENVIRONMENT ORGANIZATION

Proposals to create an international agency on environmental protection have been debated for now over forty years (overviews in Biermann and Bauer 2005 and Lodewalk and Whalley 2002). The first proposal for such an organization dates back to US foreign policy strategist George F. Kennan (1970), who argued for an International Environmental Agency encompassing “a small group of advanced nations.” Several authors supported this idea at that time. As one outcome of this debate, the United Nations established in 1973 the United Nations Environment Programme (UNEP), following a decision adopted at the 1972 Stockholm Conference on the Human Environment. UNEP is not an intergovernmental organization, but a subsidiary body of the General Assembly reporting through the Economic and Social Council. The creation of a UN environment program was a more modest reform than the strong international environmental organization that some observers had called for at that time. Nonetheless, this reform altered the context of the organizational debate in international environmental politics—and effectively halted it.

The debate about a larger, more powerful agency for global environmental policy was revived in 1989. The Declaration of The Hague, initiated by the governments of The Netherlands, France and Norway, called for an authoritative international body on the atmosphere that would include a provision for effective majority rule. Although not representative of the international community at the time, the declaration helped to trigger more proposals for a world environment organization that could replace UNEP. At the 1997 Special Session of the UN General Assembly on environment and development, Brazil, Germany, Singapore, and South Africa submitted a joint proposal for a “global umbrella organization for environmental issues, with the United Nations Environment Programme as a major pillar.” The broadening of the debate in the late 1990s resulted in a variety of new views about what a world environment organization should or should not do (overviews in Biermann and Bauer 2005).

More skeptical voices and critics of a new organization came also forward. The former head of the secretariat to the Convention on Biological Diversity, Calestous Juma, argued that advocates of a central authority divert attention from more pressing problems and fail to acknowledge that centralizing institutional structures is an anachronistic paradigm. Sebastian Oberthür and Thomas Gehring (2005) supported these concerns based on institutional theory. Konrad von Moltke (2005) or Adil Najam (2005) argued in favor of decentralized institutional clusters to deal with diverse sets of environmental issues rather than entrusting all problems to one central organization.

In recent years, the debate has been given new impetus by the diplomatic effort of France to create a UN Environment Organization. In 2003, the French government circulated a proposal to transform UNEP into an "Organisation spécialisée des Nations Unies pour l'environnement," which followed up on earlier French initiatives to replace UNEP by a "world environment organization." This proposal has been emphasized by the 2007 Paris Call for Action during the Citizens of the Earth Conference for Global Ecological Governance, and supported by an intergovernmental "Group of Friends of the UN Environment Organization." A consultative process within the UN system explored the possibility of a more coherent institutional framework for the environmental activities in the UN system. After a series of consultations with country delegations, members of the UN Secretariat and secretariats of multilateral environmental agreements, as well as with scientists, business leaders and non-governmental organizations, the process summarized several proposals on how to address the shortcomings in international environmental governance. Amongst these proposals is the establishment of a UN Environment Organization.

THREE MODELS OF A WORLD ENVIRONMENT ORGANIZATION

Virtually all proposals for a world environment organization can be categorized in three ideal type models, which differ regarding the degree of change that is required. First, the least radical proposals advise upgrading UNEP to a specialized UN agency with full-fledged organizational status. Proponents of this approach have referred to the World Health Organization or the International Labor Organization as suitable models. Other agencies operating in the environmental field would neither be integrated into the new agency nor disbanded. The new agency in this model is expected to improve the facilitation of norm-building and norm-implementation processes. This strength would in particular derive from an enhanced mandate and better capabilities of the agency to build capacities in developing countries. This differs from UNEP's present "catalytic" mandate that prevents the program from engaging in project implementation. Furthermore, additional legal and political powers could come with the status of a UN special agency. For example, its governing body could approve by qualified majority vote certain regulations that could be binding, under certain conditions, on all members (comparable to the International Maritime Organization), or could adopt drafts of

legally binding treaties negotiated by sub-committees under its auspices (comparable to the International Labor Organization). Such powers would exceed those entrusted to UNEP, which cannot adopt legal instruments.

Second, some observers argue for a more fundamental reform to address the substantive and functional overlap between the many international institutions in global environmental governance. These advocates of a more centralized governance architecture call for the integration of several existing agencies and programs into one all-encompassing world environment organization. Such an integration of environmental regimes could loosely follow the model of the World Trade Organization, which has integrated diverse multilateral trade agreements. According to some scholars, this integration could even include established intergovernmental organizations, although historic evidence suggests that this goes beyond the politically conceivable.

The third and most far-reaching model is that of a hierarchical intergovernmental organization on environmental issues that would be equipped with majority decision-making as well as enforcement powers vis-à-vis states that fail to comply with international agreements on the protection of global commons. The Hague Declaration of 1989 seemed to have veered in the direction of an environmental agency with sanctioning powers, and at the end of the 1980s, New Zealand had suggested establishing an "Environment Protection Council," whose decisions would be binding. Yet support for such a powerful international agency remains very scarce. Most scholars have focused in recent years on reform proposals that are feasible in the current political context.

RIO PLUS 2012: THE CASE FOR GETTING SERIOUS ABOUT A UNITED NATIONS ENVIRONMENT ORGANIZATION

While a world environment organization is still not a reality after forty years of debate, the idea of creating such a new agency is one of the most long-standing, and most vivid, reform debates in the field of globalization and the governance of its environmental impacts. With more than fifty nations now firmly behind a concrete proposal for a UN Environment Organization, the establishment of a new agency, based on the existing UN Environment Programme, becomes more likely, at least in the medium term. Yet the extent to which this new agency would in fact advance the effectiveness of earth system governance, is certain to remain a hotly debated issue.

I have participated in this debate for fifteen years by now (see in particular Biermann 2000), and continue to believe that a world environment organization, or a United Nations Environment Organization, as the most recent proposals call it, would improve the overall effectiveness of earth system governance in a variety of ways. In my view, upgrading UNEP to a specialized UN agency would follow the long-standing policy of functional specialization within the UN system, with the United Nations Organization as the focal point among numerous independent

organizations for specific issues, such as food and agriculture (FAO, established in 1945); education, science, and culture (UNESCO 1945); health (WHO, 1946); civil aviation (ICAO, 1944); or meteorology (WMO, 1947). While some specialized organizations are much older than the United Nations itself (for instance the Universal Postal Union, created in 1874), most were founded simultaneously with the establishment of the United Nations, since it was felt at that time that the vast number of issues in the economic, social or technical fields would “overstretch” the world body. Environmental problems, however, were no concern in 1945, with the term “environment” not even appearing in the UN Charter. It was only in 1972 that UNEP was set up as a mere program, without legal personality, without budget, and—according to its founding instruments—with only a “small secretariat.” UNEP is no comparison to the other specialized organizations that can avail themselves of more resources and hence influence.

The establishment of a UN specialized agency on environmental issues could strengthen global norm-building and institutionalization. One example of how this could work is the International Labor Organization. ILO has developed a comprehensive body of “ILO conventions” that come close to a global labor code. In comparison, current earth system governance is far more disparate and cumbersome in its norm-setting processes. The general assembly of a UN Environment Organization could adopt draft treaties that have been negotiated by sub-committees under its auspices and that would then be opened for signature within UNEO headquarters. The ILO Constitution requires its parties in article 19.5 to submit, within one year, all treaties adopted by the ILO General Conference to the respective national authorities (such as the parliament) and to report to the organization on progress in the ratification process. This goes much beyond the powers of the UNEP Governing Council, which can initiate intergovernmental negotiations, but cannot adopt legal instruments on its own.

A UN Environment Organization could also be enabled to approve by qualified majority vote certain regulations, which are then binding on all members, comparable to article 21 and 22 of the WHO Constitution. Within the WHO system, certain regulations—for instance on various sanitary and quarantine requirements, nomenclatures, or safety or labeling standards—enter into force for all states after adoption by the Health Assembly with the exception of states that have notified the organization of rejection or reservations within a certain period.

Upgrading UNEP to a UN Environment Organization could moreover ameliorate a coordination deficit in earth system governance. Norms and standards in each area of environmental governance are created by distinct legislative bodies—the conferences of the parties to various conventions—with little respect for repercussions and links with other fields. While the decentralized negotiation of rules and standards in separate functional bodies may be defensible, this is less so regarding the organizational fragmentation of the various convention secretariats, which have evolved into quite independent bureaucracies with strong centrifugal tendencies. In addition, most specialized organizations and bodies, such as the UN Food and Agriculture Organization (FAO) or the UN Organization for Industrial Development (UNIDO), have initiated their own environmental programs independently from each other and with little

policy coordination among themselves and with UNEP.

This problem is well known. The attempt to network individual organizations, programs and offices has been ongoing since 1972, when a first coordinating body was set up within the United Nations. This and its successors, however, have lacked the legal authority to overcome the special interests of individual departments, programs, and convention secretariats. For earth system governance, no central anchoring point exists that could compare to WHO or ILO in their fields. Instead, there is an overlap in the functional areas of several institutions. An international center with a clear strategy to ensure worldwide environmental protection is thus the need of the hour. Just as within nation states, where environmental policy was strengthened through introduction of independent environmental ministries, earth system governance could be made stronger through an independent UN Environment Organization that helps to contain the special interests of individual programs and organizations and to limit duplication, overlap and inconsistencies.

Governments could also empower the new agency to coordinate multilateral environmental agreements (generally by a decision of the respective conferences of the parties). The constitutive treaty of the organization could provide general principles for multilateral environmental treaties as well as coordinating rules that govern the organization and its relationship with the issue-specific environmental regimes. Following WTO usage, environmental regimes covered by the UN Environment Organization could be divided into "multilateral" and "plurilateral" environmental agreements. For "multilateral" agreements, ratification would be compulsory for any new member of the organization, while "plurilateral" agreements would still leave members the option to remain outside. The multilateral agreements would thus form the "global environmental law code" under the UN Environment Organization, with the existing conferences of the parties being transformed into sub-committees under the UNEO Assembly. This would enable the UNEO Assembly to develop a common reporting system for all multilateral environmental agreements; a common dispute settlement system; mutually agreed guidelines that could be used—based on an inter-agency agreement—for the environmental activities of the World Bank and for environmentally-related conflicts regulated under the WTO dispute settlement system; as well as a joint system of capacity-building for developing countries along with financial and technological transfer.

Apart from regime building and norm setting, a UN Environment Organization could also improve the overall implementation of earth system governance, for example by a common comprehensive reporting system on the state of the environment and on the state of implementation in different countries, as well as by stronger efforts in raising public awareness. At present, several environmental regimes require their parties to report on their policies, and a few specialized organizations collect and disseminate valuable knowledge and promote further research. Yet there remains a sizeable lack of coordination, bundling, processing, and channeling of this knowledge in a policy-oriented manner. Most conventions still have different reporting needs and formats, with a certain amount of duplication. The current system is

burdensome especially for developing countries, since the myriad reporting systems siphon off administrative resources that governments could use for other purposes. All reporting requirements could be streamlined into one single report to be dispatched to one single body, such as a UN Environment Organization. Instead of adding another layer of bureaucracy, a UN Environment Organization could provide a level of streamlining and harmonization that would reduce the current administrative burden, in particular for developing countries.

Importantly, a UN Environment Organization could help in particular smaller developing countries in making their participation in earth system governance stronger and more effective. One problem is that the current organizational fragmentation and inadequate coordination causes special problems for developing countries. Individual environmental agreements are negotiated in a variety of places. Recent conferences on climate change, for example, were hosted in a circular movement covering four continents, from Berlin in 1995 to Geneva, Kyoto, Bonn, Buenos Aires, The Hague, Marrakech, New Delhi, Milan, Buenos Aires, Montreal, Bali, Poznan, Copenhagen, and in 2010 Cancun.

Smaller developing countries lack the resources to attend all these meetings with a sufficient number of well-qualified diplomats and experts. Often, even larger countries need to rely on their local embassy staff to negotiate highly complex technical regulations on the environment. This system of a “travelling diplomatic circus” distinguishes earth system governance from many other policy fields, where negotiations are held within the assembly of an international agency at its seat. The creation of a UN Environment Organization could thus help developing countries to build up specialized “environmental embassies” at the seat of the new organization. This would reduce their costs and increase their negotiation influence. The same could be said for nongovernmental organizations, which could participate in global negotiations within the UNEO Assembly and its committees at lower costs.

Decision-making procedures based on North-South parity—that is, veto rights for the South (and the North) as a group—could ensure that the UN Environment Organization would not evolve into a new form of eco-colonialism, as many Southern actors and observers may fear. One solution could be a double-weighted majority system in the UNEO Assembly, comparable to that of the Montreal Protocol as amended in 1990 or of the Global Environment Facility as reformed in 1994. In both institutions, decisions require the assent of two thirds of members that must include the simple majority of both developing and developed countries (or, in the case of the GEF, sixty percent of the states participating and sixty percent of the financial contributions). Given that the concept of double-weighted voting has been developed in the environmental field, it seems to be a good basis for voting within the UNEO Assembly (see in more detail here Biermann and Gupta 2011).

Some have argued that the environment is too complex an issue to shape the mandate for a single organization, and have hence proposed a “world organization on sustainable

development” that would build on a merger (and upgrade) of UNEP and UNDP (at least). I view this option as problematic. It would be a marriage of unequals that is likely to harm environmental interests in the long run without strengthening development goals. First, UNDP and UNEP are unequal regarding their sheer size and resources. Taking into account the twelve-fold larger core budget of UNDP vis-à-vis the UNEP Environment Fund as well as a ratio of roughly four to one in professional staff, merging both programs would come close to the dissolution of UNEP within the significantly larger UNDP. This could result either in a strengthening of environmental goals within the development community or in the slow degrading of environmental goals in a larger new, development-oriented agency. Both UNEP and UNDP are marked by distinct organizational cultures tuned to the goals of the respective programs. Given differences in size and resources, it is difficult to believe that the much smaller “environmental” community will eventually prevail in changing the much larger “development” community within an overall new organization. It seems certain that the strength and independence of environmental concerns will be weakened over time.

This is in the interest of neither North nor South, since functional differentiation in governance systems between socio-economic development and environmental protection makes sense. Hardly any country has opted for the administrative merger of “economic development” and “environmental protection” as policy areas at the national level. Most countries maintain the differentiation between economic or development ministries, and environmental ministries. This experience at the national level illustrates that environmental policy indeed can, and should, be addressed by one administrative unit. It is not clear why administrative functional differentiation should differ at the international level. Most international organizations and national ministries have clearly defined mandates for their respective policy areas, and it is theoretically not difficult to demarcate the responsibilities of a new international organization for the environment (see also Charnovitz 2005). All this advises against the merger of UNEP and UNDP into one program or organization.

UNEP and UNDP are also unequal regarding their functions within their respective governance areas. UNEP has an important role in agenda-setting and knowledge-management, for example with a view to the initiation of new treaties, the organization of international diplomatic conferences, the training of national administrative and legal personnel, or the initiation, synthesis and dissemination of new knowledge, regarding both fundamental and applied environmental science. UNDP’s core functions, on the other hand, are operational. It is mandated to generate and implement projects, with less regard to international standard setting or knowledge-generation. A merger of UNDP and UNEP hence runs the risk that the different functions of UNEP will lose influence within such a larger new agency.

If, on the other hand, a world organization on sustainable development would imply merely the upgrading of UNEP to an international organization with this name, while leaving other bodies—including UNDP or the World Bank—untouched, it is unclear what consequences the choice of the organization’s name—“sustainable development” instead of “environment”—would have.

This could reduce the overarching concept of “sustainable development” to a new yet deluding label for environmental protection. In sum, a world organization on sustainable development would be either ill advised if it implies the integration of UNEP and UNDP, or a misuse of a key concept of North-South relations if it merely implies giving a new name to an essentially environmental organization.

This does not imply that a UN Environment Organization should address environmental policy as unrelated to the larger quest for development. A UN Environment Organization would aim at the preservation of environmental resources *within* the development process, not unlike the role of environmental ministries in developing countries. A UN Environment Organization should not be seen in juxtaposition of environment *and* development, but rather within a framework of environment *for* development. The UN Environment Organization constitution would hence have to encompass more than purely environmental rules, but address the development concerns of the South as well. Therefore, general principles such as the right to development, the sovereign right over natural resources within a country’s jurisdiction or the principle of common but differentiated responsibilities and capabilities need to be integrated into the constitutive instrument of the UN Environment Organization.

SUMMING UP

In sum, even though international organizations and bureaucracies play important roles in earth system governance, the current system of international organization and of international bureaucracies lacks effectiveness. This is partially due to a lack of standing of the core agencies in this respect and the overall fragmentation of earth system governance. I have laid out in this paper a proposal for upgrading UNEP to a United Nations Environment Organization. The establishment of a UN Environment Organization would improve coordination of earth system governance; pave the way for the elevation of environmental policies on the agenda of governments, international organizations and private organizations; assist in developing the capacities for environmental policy in African, Asian and Latin American countries; and strengthen the institutional environment for the negotiation of new conventions and action programs as well as for the implementation and coordination of existing ones. Naturally, a UN Environment Organization as outlined here cannot solve all problems of environmental degradation. It can only be a partial contribution. Yet this should not result in a rejection of reform. A United Nations Environment Organization is no silver bullet. But its creation will be an important building block in improving the overall effectiveness of our efforts to protect the biogeochemical systems of the planet.

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