

Analysis of UNEP Executive Director's Report on International Environmental Governance (UNEP/IGM/1/2)



Paper # 2

WHAT Governance Programme

A Joint Initiative of the World Humanity Action Trust (WHAT), UNED Forum¹ and Global Legislators Organisations for a Balanced Environment (GLOBE) Southern Africa

Submission to the UNEP May 22-25 Civil Society Consultations on International Environmental Governance.

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"Governance is the framework of social and economic systems and legal and political structures through which humanity manages itself" World Humanity Action Trust (WHAT), 2000, Page 7

¹ ¹ From January 1st 2002 **UNED Forum** will be known as **Stakeholder Forum for Our Common Future**

Analysis of UNEP Executive Director's Report on International Environmental Governance (UNEP/IGM/1/2)

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May 16, 2001**

Introduction:

This paper is a preliminary DRAFT analysis of a number of selected issues in the UNEP Report on International Environmental Governance (UNEP/IBM/1/2). Please note that this paper represents my personal views and does not necessarily reflect the views of the Stockholm Environment Institute. This paper will be circulated to participants of UNED-Forum's May 2, 2001 Workshop on International Environmental Governance for review and comment and, if appropriate, to serve as an input to the UNEP May 22-25 Civil Society Consultations on International Environmental Governance.

I have addressed the following issues in the Executive Director's Report:

1. Strengths in existing arrangements (paragraphs 63-69)
2. Weaknesses in existing arrangements (paragraphs 70-87)
3. Private capital flows (paragraphs 120-122)
4. Needs and options for IEG (paragraphs 135-141)
5. Environmental organizations and structures (paragraphs 144-145)
6. Options at the MEA level (paragraphs 148-152)

1. Strengths in existing arrangements (paragraphs 63-69)

Chapter 2, Section 1 (paragraphs 62-69) notes the following strengths in the existing international environmental institutional arrangements:

- (i) increase in environmental awareness and concern;
- (ii) establishment of new bodies to address environmental concerns; growth of multilateral environmental processes;
- (iii) growth in national environmental legislation and institutional arrangements;
- (iv) UNEP's role in providing environmental assessment and information and role as a global policy making forum;
- (v) growth in multilateral environmental conventions and protocols.

A number of qualifiers must be made to the above-noted achievements.

First, **as regards the putative increase in environmental awareness and concern since 1972**, it is important to note that within many developed and indeed developing countries, the environmental agenda has fallen off the political radar, due to pressures to promote economic growth, competitiveness and job creation, and a mistaken belief that sustainable development is inimical to those goals.

National and international media are routinely silent in their coverage of environmental affairs. Environmental issues are rarely raised as electoral campaign issues, with the example that in the last US presidential campaign neither of the Republican and Democratic political manifestos contained any reference whatsoever to the concept of "sustainable development". And the fact that President George W. Bush's latest decision to reject the Kyoto Protocol has been met with far too silent a public outcry, represents the extent to which the American public concerns itself with environmental issues.

As regards the establishment of new bodies within and outside the UN system to address sectoral environmental issues, there is no doubt that bodies such as UNEP, UNDP, the Commission for Sustainable Development have played important roles in promoting the sustainable development agenda. However, the main problem as concerns the establishment of new bodies within and outside the UN relates to the overall lack of coordination and coherence between these entities. Lack of coordination is reflected for example in the fact that the Commission for Sustainable Development and the Commission for Social Development, often meet at the same time at UN headquarters, but there is no provision for those two bodies to interact at either the political, policy or functional levels. This leads in considerable duplication and cases where they may actually work at cross-purposes with each other. Another matter of priority concern is the extent to which Bretton Woods institutions such as the World Bank and the IMF are increasingly engaged in the formulation and delivery of sustainable development policy and programmes. There is continuing tension between those bodies and the UN system to ensure that the sustainability goals articulated by central UN bodies such as UNEP and UNDP and the CSD are indeed respected and promoted within the Bretton Woods institutions. On numerous occasions high-level officials of those bodies have asserted the paramountcy of the BWI and refusal to adhere to the policy guidance expressed by many of the key Conferences of the Parties (COPs)

As regards multilateral processes to consider environmental issues, there is no question that they have grown significantly. However, there has to date, been no systematic analysis of how multilateral environmental policies actually promote the real concerns and priorities of the South. Most developing country governments argue that global environmental governance processes are dominated by Northern science interests and do not adequately reflect the most pressing environment and development priorities of the South. Developing governments further assert that environmental negotiation processes are most often carried out without any due regard to the larger equity and social justice concerns, thereby disregarding the development dimension of the sustainable development agenda.

As regards the role of UNEP, it is important to note that what is most needed at this point is a systematic, balanced and objective analysis of UNEP's strengths and weaknesses. UNEP is not in a position to carry out such an evaluation. The establishment of the Global Ministerial Environment Forum is welcome indeed. However, efforts must be undertaken to ensure that the work of the Environment Forum does not become undermined and/or paralysed by the unconstructive political dynamics, which have impaired the work of the CSD, and which have dominate many recent international environmental negotiations. There must be a clear division of responsibility between the goals, objectives and work programmes of the Ministerial Environment Forum and the CSD. Indeed, questions must be raised as to the continuing utility of the CSD in light of the establishment of the Ministerial Environment Forum.

As regards the development of multilateral environmental agreements (MEAs), the Executive Director's report asserts that the "various conventions and protocols on the environment represent one of the most outstanding achievements of the global community in the environmental field to date". That assertion may be somewhat overstated. While the international environmental agenda may indeed be fully covered by international agreements, the sheer quantity of international conventions should not be automatically interpreted as assuming success on the part of those instruments in addressing and resolving the key environmental issues and problems, which prompted their negotiation in the first place. A study that I prepared for the European Commission DG Development on the MEA Implementation Challenges of Developing Countries concluded that despite the extraordinary number of MEAs on paper, the actual reality as regards implementation is rather grim. Developing countries lack the necessary capacity to ensure the translation of international policy into domestic action. Such lack of capacity is reflected in the following areas:

- (i) limited public awareness of critical environmental problems;
- (ii) under-developed civil society capacity;
- (iii) lack of law making and regulatory capacity;
- (iv) inadequate compliance and enforcement mechanisms;
- (v) limited capacity for intergovernmental coordination;
- (vi) limited ability to conduct state of the environment evaluations;
- (vii) limited capacity to integrate environmental concerns into economic decision making;
- (viii) limited monitoring tools and mechanisms;
- (ix) limited availability of fiscal and economic instruments;
- (x) lack of scientific and technical capacity to assess and develop state of the environment data upon which to develop sound environmental policy.

2. Weaknesses in existing arrangements (paragraphs 70-87)

Chapter 2, section 2 (paragraphs 70-87) identify several key weaknesses in the existing arrangements. These include, *inter alia*:

- (i) discrepancy between commitments and action;
- (ii) inadequate level of integration of environmental considerations into the mainstream of decision-making;
- (iii) inadequate approaches to global environmental management;
- (iv) impacts of globalisation;
- (v) fragmented machinery;
- (vi) weak international dispute mechanisms;
- (vii) lack of holistic approach to international environmental governance

As regards the current discrepancy between commitments and action, this problem is increasingly widespread in both developed and developing countries alike. In many countries, environment ministries still rank very low in the political hierarchy. As a result the national environmental agenda is not given the prominence, nor the degree of political commitment that is due. The low level of commitment is in part reflected in the very small number of countries who have actually yet implemented national strategies for sustainable development.

Even within the EU, despite its stated commitment to ensure the continued political commitment to sustainable development, there are numerous examples, which demonstrate its overriding priority to economic policy goals. This is reflected in the current EU CAP, the Common Fisheries Policy, the Transport Policy and the orientation of structural and cohesion funds and export credit policies.

As regards the impacts of globalisation, more attention must be directed towards understanding how economic globalisation is fundamentally changing the nature of environmental management, and what measures are needed to mitigate the adverse impacts. On the one hand, globalisation heightens the influence of market forces, most importantly, competition, on the making and enforcement of environmental policy. On the other hand, globalisation subjects national environmental policy to the discipline – or chaos- of international institutions.

The impacts of globalisation on environmental management capacities cut two ways: they constrain governments and they enhance the influence of markets on social and economic outcomes. Markets in turn influence environmental performance through a variety of channels, including technology transfer, changes in the level of demand for environment-intensive goods, substitution effects, green consumerism and others.

Rather than triggering a downward spiral, the primary impact of globalisation is to keep environmental policy initiatives “stuck in the mud”. On the one hand, the constraints of competitiveness induced by globalisation retard the capacity and willingness of nation-states to take any unilateral measures, which impose costs of good environmental management on domestic producers. On the other hand, the pressures of policy convergence mean that measures, which are taken, will only be those in step with primary competitors. The net results are first that markets become the primary drivers of changes in environmental performance, and second, that environmental managers are pressured to maintain the status quo or to change it only incrementally.

As regards the fragmentation problems, it is important to note that fragmentation takes many forms: overall lack of coherence between existing bodies, structures and institutions; treaty congestion and the lack of coordination between the different treaty secretariats; lack of coordination at the domestic level; fragmentation among the institutional structures which govern multi-lateral environmental agreements; policy incoherence between the trade and environmental agendas; the lack of a coherent structure within the management of international environmental affairs, etc.

The Executive Director’s Report only begins to “scratch the surface” of the problems. Once again, the starting point must be a systematic and methodologically sound analysis of all the different types of fragmentation and coordination problems within the existing system of international environmental governance. This has not been done, and it is the gap analysis that must provide the basis for the next concrete steps in enhancing overall coordination.

Another important coordination-related problem is the fact that many MEA are not sufficiently mutually supportive. A coherent environmental international environmental agenda must be embodied in a comprehensive set of legal instruments and policy directions to better promote the sustainability agenda.

One of the central coherence and coordination issues is of course the need to ensure that the environment and trade agendas and decision-making processes are likewise more mutually supportive and reinforcing of the larger sustainability agenda.

The Government of Canada’s Bergen paper on institutional reform suggests that there may be scope for elimination of duplication and promotion of shared agenda setting, information sharing and common approaches which could lead to a more efficient use of time and resources. A debate on coordination issues is underway related to several of the key conservation agreements, but perhaps there is a need for stronger political direction to guide these efforts.

Given the expanding environmental agenda and the currently fragmented approach to international environmental law and policy making, the international community must consider how existing institutional machinery can not only be strengthened but better coordinated to ensure that it can indeed confront the challenges of the new millennium.

As regards the inadequate dispute settlement machinery, much academic work has been undertaken to assess the most innovative forms of dispute settlement procedures. This work must be integrated into the international environmental governance reform process to ensure that the most innovative thinking already done to date is fully reflected in the reform of international environmental institutions. Likewise, systematic analyses must be undertaken to

assess what are the factors that have contributed to the success of the WTO's dispute settlement machinery to evaluate what aspects might be replicated within the environmental arena.

As regards the lack of holistic approach to international environmental governance, as noted above, most developing country governments argue that global environmental governance processes are dominated by Northern science interests and do not adequately reflect the most pressing environment and development priorities of the South.

Developing country governments further assert that environmental negotiation processes are most often carried out without any due regard to the larger equity and social justice concerns, thereby disregarding the development dimension of the sustainable development agenda. This is further exacerbated by the fact the inadequate linkages between the international negotiations carried out within the environment track and the major world summits of the 1990s. This is illustrated by the fact that in preparation for the 2002 World Summit on Sustainable Development, most governments agree that poverty eradication should be prominently addressed. However, to date there has been no effort whatsoever to assess how the results of the Social Summit and its review process should be integrated into the WSSD process, particularly as regards the Social Summit's extensive outputs regarding poverty eradication measures.

3. Private capital flows (paragraphs 120-122)

The Executive Director's Report identifies the following obstacles in private investment in environmentally sustainable projects and programmes:

- (i) low and inconsistent demand for environmental technologies and services;
- (ii) market and policy risks;
- (iii) limited technical or financial intermediation capacity;
- (iv) limited menu of financial instruments;
- (v) information gaps;
- (vi) limited access to technology.

A report that I prepared on behalf of the Stockholm Environment Institute for the Swedish Environment Ministry (based on a policy dialogue that was convened in December 2000) identified the following policy recommendations to ensure that FDI is more responsive to the sustainable development agendas of developing countries. These include the following:

“” 2.1 New and improved approaches should be developed to facilitate private investment

- (i) Promote new forms of risk sharing between the private and public sectors to enable governments to motivate the private sector to engage in sustainable development activities. This type of risk sharing could focus on areas where the private sector may be able to take on sustainable development in an economically viable way but might be hesitant due to some perceived or real risk that is significant enough to impede innovation, but not so great as to undermine the business case for the endeavour.
- (ii) Accelerate the use of environmental risk guarantees to stimulate investment in private sector ventures and/or initiatives that are consistent with sustainable development goals.
- (iii) Environmental risk guarantees should be provided by governments and multi-lateral development banks to the private sector where they can demonstrate the ecological and social sustainability of their projects and fully mitigate the potential risks involved.
- (iv) Expedite the use of risk-reducing/ risk-sharing instruments, such as risk insurance, which could be required by companies and which would in turn stimulate the private sector to internalise the external environmental and social costs of potentially risky business enterprises.
- (v) Extend performance bonds or “close-out” funds to address post-project environmental impacts (such as rehabilitation, restoration, clean-up) to ensure that when a corporate enterprise (notably those involved in natural resource processing and extraction) is completed, the corporation in question is bound to take all necessary steps to ensure that its extractive life is ended in a sustainable manner.

2.2 Governments should support the various ongoing business- initiated sector specific assessments (i.e. the mining, cement, and hydroelectric sector assessments).

- (i) These various assessments are currently addressing the overarching framework conditions and the broad range of issues to be addressed in promoting and enhancing the sustainable dimension of these industries. They could provide the basis for useful pilot demonstration projects, which should involve multi-stakeholders and a clear indication of roles and responsibilities.
- (ii) It is critical that governments support these initiatives not just in monetary terms, but also in terms of providing input to the development of new approaches that are responsive to sustainable development goals and principles.

2.3 Improve the quality of information and statistics regarding private capital flows

- (i) Efforts must be undertaken to evaluate the current state of statistics regarding private capital flows. Existing statistics are outdated and inapplicable to the current trends regarding private capital flows.
- (ii) Specifically, more and better information is needed to ensure the improved tracking of the destination and sectoral use of private capital flows. Efforts are also needed to generate better statistics to understand how much of FDI is actually compatible with the aims of sustainable development.
- (iii) In particular the new generation of statistics should be disaggregated by sector and should be complemented with concrete case studies.
- (iv) It will be useful to explore how the capital flows information and statistical gaps might be narrowed by making greater use of the various international development targets. This will help to ensure that development goals are better highlighted and more effectively implemented.

3.1 Recommendations regarding civil society/private sector partnerships

3.1.1 The Swedish Government should support the further refinement and strengthening of multi-stakeholder processes to provide input to FDI decision-making processes.

These processes should engage the full range of state and non-state actors to promote corporate responsibility and to furthermore ensure that FDI supports sustainable development goals

- (i) Multi-stakeholder processes should be created to evaluate how best to promote corporate responsibility on a sector-specific basis, in accordance with the specific criteria for multi-stakeholder processes that are elaborated in the Explanatory Notes to this specific recommendation.

- (ii) Multi-stakeholder processes should likewise be created to ensure that private capital flows are better directed towards sustainable development initiatives in developing countries. The development of concrete criteria and indicators for tracking private capital flows will be critical in this regard.””

4. Needs and Options for International Environmental Governance (paras 135-141)

Paragraph 139 of the Executive Director's Report on IEG identifies the following criteria that should govern any approach to strengthening environmental governance: credibility, authority, financing, participation of all actors.

I suggest that the following principles should govern the redesign of the international environmental governance architectures.

Note the following text was excerpted from a chapter on global governance that I wrote for a World Business Council for Sustainable Development report entitled "Designing Better Governance". The full report with references is available on the WBCSD's web site: www.wbcsd.org

(i) Good Governance:

UNDP has identified the following priorities as the core characteristics of good governance systems. In brief, good governance systems must be participatory, transparent, accountable, effective and efficient, fair and impartially enforceable and gender balanced.

(ii) Clear Norm-Setting:

As the nature of sustainable development problems have become more complex, new mechanisms may be needed to set goals and priorities that recognise that many sustainability problems do in fact extend beyond national boundaries. The process for taking decisions and setting priorities will therefore have to be scaled up to account for the new complexities and this is where global governance will be instrumental; providing clear norms and processes for reconciling differences.

(iii) Fair Distribution of Bargaining Power:

Poor people and poor countries have little influence and voice in global governance. The most important and influential bloc of countries is the G-7, whose members control the Bretton Woods institutions through voting rights, and the UN Security Council by occupying three of the five permanent seats. An important guiding principle in global governance reform is the fair and equitable distribution of bargaining power to ensure that the influence and voice of the world's poor is heard and indeed reflected in the decisions of global governance processes. Imbalances in the structures of global governance must be remedied with new efforts to create a more inclusive system.

(iii) Accountability and Compliance:

Improving institutional accountability is a key priority in the reform of global governance systems. Decision-making must be made more transparent, as noted above, and independent evaluations of international policies can be a first step towards increased accountability. The World Bank's Operations Evaluation Department and the IMF's independent external evaluation of its Enhanced Structural Adjustment Facility programmes are first steps in the right direction, which should be emulated in global governance systems.

A common criticism of environmental conventions is the lack of mechanisms for effective enforcement and compliance with international norms. Compliance is closely related to the issue of accountability. In the re-design of global governance systems, it is important to bear in mind the need for new mechanisms to avert problems of non-compliance that undermine current global governance systems. A number of ongoing and proposed approaches could be instructive in the design of compliance mechanisms. They include the following:

- New approaches to “common but differentiated responsibilities”, convention financing mechanisms and non-compliance procedures have provoked a shift in national attitudes to international reporting and monitoring:
- The development of collective review procedures, such as the non-compliance procedures of the Montreal Protocol, use non-confrontational techniques to overcome impediments to compliance, and these have proven more effective than the imposition of sanctions in many cases.
- A wide variety of formal and informal partnerships have developed for monitoring compliance with environmental norms.
- Compliance monitoring must be entrusted to one centralised body, such as a re-constituted Trusteeship Council, a new UN body, or perhaps UNEP itself.

(v) Leadership:

Global governance systems must ensure the provision of visionary leadership that inspires nation states to overcome their preoccupation with narrow national interests and recognise that national security is indivisible from global security and requires sustained commitments to long-term ecological and human security.

(vi) Coherence and Coordination

The mandates and functions of the global governance architecture must be realigned, based on the principles of subsidiarity with well-defined linkages amongst them so that they can cooperate more systematically, effectively and cohesively.

In particular, this should include much closer relationships between the United Nations and the Bretton Woods institutions in respect of economic, financial and monetary issues that impact on the political, social and environmental fields for which the UN is the primary forum.

(vii) Engagement of Civil Society:

In order for global governance systems to be more participatory, transparent and accountable, it is imperative that civil society be more actively engaged in those decision-making forums. More effective and systematic mechanisms are needed to ensure enhanced civil society involvement generally, especially for those groups who are underrepresented in the formal structures, but also in respect of those issues where civil society organisations possess important expertise.

UN Secretary-General Kofi Annan's reform programme calls for the establishment of an "issue management system", based on a process developed in preparations for the 1992 Earth Summit. It brings together key actors – both governmental and non-governmental to develop coordinated approaches to specific issues in which all have a role to play.

(viii) New Ethical and Moral Framework:

Recent advances in global governance have been built on concepts and principles of economic efficiency and competitive markets. These are certainly important elements, but not enough, just as they would be in national governance systems. It is felt that the global governance debate does not sufficiently address the weaknesses, imbalances and inequities in global governance systems, which, having developed in an ad hoc manner, have indeed left many gaps.

Global governance requires a common core of values, standards and attitudes. This entails a widely felt sense of obligations, not just by individuals, but by governments, corporations and civil society organisations. The core values of respect for life, liberty, justice, equality, tolerance, mutual respect and integrity underlie the Charter of the United Nations and the Universal Declaration of Human Rights. They must now become incorporated in the principles and practices of global governance.

5. Environmental Organizations and structures (paragraphs 144-145)

Paragraphs 144-145 summarize a number of institutional recommendations.

As regards the possible upgrading of UNEP from a UN programme to a fully fledged specialized agency, it is important to assess whether such a proposed upgrading would in fact strengthen the role and impact of UNEP. Despite the political importance of situating UNEP in Nairobi (given that it is the only UN body headquartered in Africa) many officials feel that its location in Nairobi seriously hinders its effectiveness. No matter what form it is transformed into, unless the overarching political climate is improved and Member States demonstrate a greater political commitment to supporting its mission, mandate and operations, UNEP will continue to be treated as a marginal player in the UN system.

Moreover, while instituting a budget system from assessed contributions will ensure a solid financial foundation for the challenges UNEP faces, it is important to of course assess whether current monies are being invested by UNEP in appropriate activities. Is there sufficient value for the contributions that governments are currently making? And how does UNEP compare in this regard to other relevant UN bodies. Of course another key question that must be addressed is whether the political climate is in fact conducive to the development of an assessed scale of contributions to UNEP.

As regards transforming ECOSOC into a Council on Sustainable Development, while the underlying rationale may have considerable merit, no amount of retrofitting, rewiring and restructuring of existing organizations will serve the cause of sustainable development unless the underlying and overarching political framework conditions are changed. This is particularly important in light of the fact that ECOSOC is generally regarded as a rather ineffective and in some eyes, moribund body, which serves little

purpose in the overall UN system. Moreover, any reform proposal that would require amendment to the UN Charter should be avoided in light of the considerable time delay and political difficulties that would no doubt be inherent in such an undertaking.

As regards strengthening the UN Commission for Sustainable Development, while there is certainly a need to strengthen the UN Commission for Sustainable Development, it is now time to take a harder critical look at whether the CSD should continue to exist or whether its functions should be integrated into another existing body. Its main strength lies in the multi-stakeholder dialogues that have set a new precedent of civil society-government interaction within UN forums.

However, at best the CSD does a rather poor job at recycling decisions that are taken in other forums. IF the CSD is to continue, then member states must provide it with a new work programme that enables it to carry out a much more strategic function than the ones it currently discharges.

On this note, some very good general questions raised in Canada's Bergen paper could be usefully applied to consideration of whether the CSD should in fact continue:

- (i) Does the existing machinery have the political vitality, profile and voice in crucial debates where decisions are taken? Is its influence felt in the key debates?
- (ii) Does the CSD machinery have enough sustained political influence to be not only relevant but credible in setting the global sustainability agenda?
- (iii) Does the CSD provide a venue to provide holistic strategic guidance to counter the fragmentation of the environmental debate which results from the growing number of specialized environmental conventions and their autonomous governing bodies and secretariats?
- (iv) Can the CSD truly drive the effort to make the system of MEAs more effective in terms of their implementation and adequacy of targets?

As regards the possible establishment of a WEO, once again the underlying rationale holds out considerable merit. Nothing less will ensure that the environmental decision making machinery is sufficiently strengthened to ensure that the policy balance is shifted in favour of sustainable development and that the WTO is counterbalanced by a sufficiently robust international environmental governance regime.

As regards transformation of the UN Trusteeship Council, efforts have been led over the last ten years (by the government of Malta, among others) to transform the Trusteeship Council. These efforts have been continuously undermined by several governments, including the US, who incorrectly assert that the Trusteeship Council has not in fact fully discharged all of its functions. The debate has been lost in the UN General Assembly Sixth Committee and nothing less than a full scale campaign led by a coalition of strong like-minded governments could be effective in light of the lingering death that Malta's proposal has endured.

As regards establishment of a new environmental court, it is often forgotten that the International Court of Justice does indeed have an environmental chamber. Unfortunately it is rarely, if ever used by States. Therefore, before any efforts are undertaken to establish a new judicial body, it is important that a full and objective evaluation be undertaken of the ICJ's Environmental Chamber to identify those factors which have undermined its functioning and to ensure that those factors are addressed and avoided in the possible creation of a new environmental court.

6. Options at the MEA level (Paragraphs 148-152)

The Executive Director's Report on IEG aggregates options into the following categories: coordination; monitoring the state of implementation; improving capacity and incentives for compliance; and compliance and enforcement tools.

As regards the challenge of coordination, it is important that potential coordination solutions are developed in recognition of all the different dimensions of the fragmentation problem. For example, as regards vertical fragmentation, a greater degree of coordination and coherence is needed to ensure that institutional arrangements and regimes at all levels of governance work in mutually reinforcing ways.

As regards horizontal fragmentation, UNDP's 1999 Human Development Report concluded that global governance suffers because most governments lack coherence between the positions taken by their finance ministers (in Bretton Woods institutions) and their foreign ministers (in the UN system) and their sectoral ministers (which normally represent the in such UN bodies as UNEP, UNDP, FAO, ILO, the CSD and the various COPs).

Fragmentation also has a substantive dimension as well. Global governance lacks an overarching conceptual framework for sustainable development within which competing economic, ecological and social development concerns can be weighed and resolved in a coherent manner.

As regards the importance of improving capacity and incentives for compliance, it is important to note that enforcement and compliance of environmental agreements will always be problematic in an international system based on the overriding paramountcy of national sovereignty. Developed and developing nations alike have pushed to weaken MEAs by omitting binding and specific commitments, and when concrete obligations are included they are rarely accompanied by sanctions or dispute settlement measures. Very few international environmental regimes actually contain provisions for compliance. Only seventeen international environmental instruments (Montreal Protocol, CITES, Basle Convention and a dozen species-specific conservation treaties) contain provisions for trade sanctions against violators. Those that do contain such provisions have virtually never been invoked or are being challenged by the WTO.

Another problem is that states rarely submit the required self-evaluations for their own compliance with key MEAs. And it is even more rare for a convention secretariat or COP to publicly condemn a state for non-compliance, let alone impose meaningful penalties. This problem must be addressed with more specific and demanding agreements enforced by well-

funded and independent monitoring bodies. Even public criticism of states that violate treaty obligations would help to improve the situation.

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May 16, 2001