

The Environmental Dimension of IFSD

UNEP Division of Environmental Law and Conventions (DELIC)



Note on Issues Briefs: The issues revolving around the theme of the Institutional Framework for Sustainable Development (IFSD) are complex and numerous and the information that exists on it is often dispersed and sometimes not easily accessible. The Issues Brief series has been prepared in order to address some of these information and knowledge gaps as well as to assist stakeholders to understand some of the main concerns that have been raised over the course of recent formal and informal meetings concerning the environmental pillar of IFSD. The Issues Briefs in no way represent a position of any stakeholder or the views of the UNEP Secretariat or its member states but are rather intended to be informative and non-prescriptive. The Issues Briefs will be released on a regular basis over the course of the next 12 months leading up to the Rio+20 Conference.

Fragmentation of Environmental Pillar and its Impact on Efficiency and Effectiveness

A. Fragmentation of Environmental Pillar

Since well before UNEP was established by the General Assembly in 1972 as the primary environmental body within the United Nations system, environmental issues have been built into different programmes of United Nations organisations. Since UNEP's establishment, they have also been addressed through a wide range of multilateral environmental agreements, many of which came about as a result of the work of UNEP.

The creation of UNEP, the incorporation of environmental issues into several programmes of different United Nations agencies and the negotiation of more than 500 multilateral environmental agreements (MEAs) is a noteworthy achievement.

While much has been achieved, it is also recognized that the international community has taken a piecemeal approach to environmental issues, responding to them as they emerge and in isolation from one another. This piecemeal approach to tackling environmental issues has led to fragmentation in how the international community has, among other things:

- (a) Invested in environmental issues through a number of institutions, including UNEP, the United Nations Development

- Programme (UNDP), the World Bank, the Global Environment Facility (GEF), MEAs, etc;
- (b) Managed the science through multiple MEA subsidiary bodies, the GEF Scientific and Technical Advisory Panel, etc;
- (c) Engaged in capacity building efforts involving agencies, programmes and MEAs;
- (d) Located its core environmental institutions in several cities across the globe, including Bonn, Geneva, Montreal, Nairobi, Washington, D.C., etc.

In a study compiled by the International Institute for Sustainable Development for UNEP on selected MEAs concluded over the past

15 years entitled "International Environmental Governance: Demands and outputs of selected MEAs between the years 1992–2007", it has been shown that the international environmental governance system has entered a new phase in its evolution in which the number of negotiations has peaked shortly after the Rio Earth Summit in 1992, but not ceased, (see figure 1). The study also shows that the system has moved into an era when increasing attention is being paid to implementation, as is shown by the steep increase in the number of parties to conventions each year, which in 2004 was still on the rise (see figure 2).

Table 1 shows a summary of the number of meetings and decisions

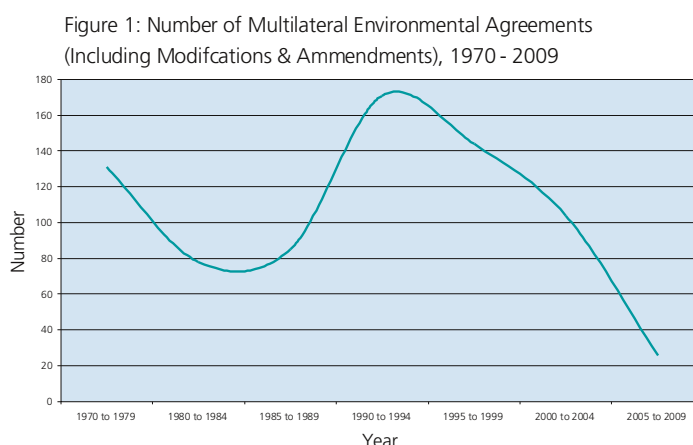
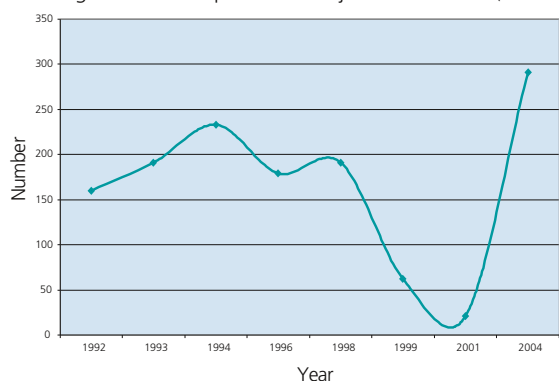


Figure 2: No. of parties to Major Conventions (1992-2004)



taken by Conferences of Parties of major MEAs between the years 1992 – 2007. With a total of 540 meetings in which 5,084 decisions have been taken, requiring preparation and follow-up in addition

to time and resources spent, this indicates the burden leveraged on governments.

This has resulted in questions raised whether the existing global environmental governance system is best equipped to respond to these trends.

Table 1: Institutional Framework for Sustainable development Briefing Two

Multilateral environmental agreement	Entry into force (date)	No. of parties	No. of meetings	No. of decisions/resolutions
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal	1992	160	77	398
Convention on Biological Diversity	29/12/1993	191	21	352
Convention on International Trade in Endangered Species of Wild Fauna and Flora	01/07/1975	173	40	1892
Convention on the Conservation of Migratory Species of Wild Animals and protocols	01/11/1983	109	54	501
Agreement on the Conservation of African-Eurasian Migratory Waterbirds	01/11/1999	62	14	49
Agreement on the Conservation of Albatrosses and Petrels (ACAP)	02/01/2004	11	5	16
Agreement on the Conservation of Populations of European Bats	16/01/1994	31	18	42
Agreement on the Conservation of Small Cetaceans of the Baltic, North East Atlantic, Irish and North Seas	29/03/1994	10	19	40
Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area	01/06/2001	21	7	113
Agreement on the Conservation of Seals in the Wadden Sea	01/10/1991	3	N/A	N/A
United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa	26/12/1996	179	23	217
United Nations Framework Convention on Climate Change	21/03/1994	192	73	306
Kyoto Protocol to the United Nations Framework Convention on Climate Change	16/02/2005	182	N/A	N/A
Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade	24/02/2004	122	6	40
Stockholm Convention on Persistent Organic Pollutants	17/05/2004	158	6	65
Convention on Wetlands of International Importance, Especially as Waterfowl Habitat	21/12/1975	158	73	549
Vienna Convention on the Protection of the Ozone Layer	22/09/1988	191	14	2
Montreal Protocol on Substances that Deplete the Ozone Layer	01/01/1989	191	90	502
		Totals	540	5,084

Agreements with enough history to provide substantial data
Newer agreements for which less data is available
UNEP/GC25/INF/16/Add.1.

B. Impact of fragmentation on efficiency and effectiveness

1. Use of financial resources –

With each MEA maintaining its own administrative system, including secretariat costs, financing of meetings, procurements, etc. a large amount of funds are being spent on administration rather than activities on the ground, for implementing agreements or capacity building. This inefficiency becomes apparent when comparing the combined financing of MEAs, roughly estimated at \$445 million, with the annual consolidated budget of the World Trade Organisation, \$222 million (for 2010), or that of the International Labour Organisation, \$726.7 million (biennium), both of which have authority over all multilateral agreements within their respective areas of expertise.

2. Inconsistency in interpretation of rules –

One of the most serious threats to the progressive development of international law is inconsistency.¹ The continual revision and change of multilateral treaties has resulted in variations in interpretations of international rules and principles and it has led to discrepancies in the use, interpretation and strength of international environmental law. The effect of the variations in interpretation was a gradual weakening of the principles and rules and is counterproductive for the development of customary environmental law and codification.

3. Neglect of ecological interlinkages –

While many areas of the environment are now covered by MEAs the

specialization on specific sectors has resulted in the neglect of the interlinkages between the specialised MEAs. The neglect is not just apparent in terms of coverage of substance but equally concerned are the non-existence of legally binding obligations and a lack of funding.

4. Structural inefficiencies –

The fragmented structure of the IEG system resulting in the holding of numerous meetings has exerted a considerable burden on participating countries. This concerns not only financial burdens associated with continuous travelling but also human and time resources. In particular developing countries are affected by this phenomenon and risk their disenfranchisement in the system.

Incoherence and complexity in the international environmental governance system can lead to high transaction costs and in some instances this could discourage developing country participation in the system, giving rise to questions on whether the system of international environmental governance provides coherent support to countries and better enables them to meet their environmental and developmental objectives, in particular in the case of developing countries.

C. What is needed?

MEAs have emerged as one of the best ways of institutionalising intergovernmental cooperation and triggering national action in the environmental sector. They have been integral to establishing standards,

policies, and guidelines for the stewardship of the global environment. However, with the increasing number of treaties and secretariats responsible for their administration, coherence and coordination of efforts has emerged as a central issue for effective international environmental governance.

Most UNEP/United Nations-administered MEAs have separate secretariats. This practice is rather exceptional under existing institutional arrangements for multilateral agreements within the United Nations system compared to specialised agencies, which manage their conventions more efficiently within their regular work programmes. Moreover, the cost of establishing independent secretariats is 4.7 times more than if housed within the UN.²

The emphasis and resources need to shift from administration of secretariats to implementing these MEAs effectively at the national level. There is currently wide concern within the international community that MEAs are inadequately implemented, these shortcomings being the results of failure on the part of the multilateral environmental agreements to fulfill their promise. In particular, developing countries and countries with economies in transition have struggled with the implementation of, compliance with and enforcement of the variety of individual MEAs.

The success or failure of any effort to protect the global environment ultimately rests with countries. However, lack of capacity and resources is one of the primary obstacles to the implementation of MEAs. It has been clearly stated that: In order to effectively implement

¹ Wilfred Jenks one of the most respected scholars of international law in 1953 observed the fragmentation as undermining to the development of international law C. Wilfred Jenks, "The Conflict of Law-Making Treaties", BYBIL vol. 30, (1953) p. 403.

² As shown in the 2008 Joint Inspection Unit report the cost of establishing independent MEA Secretariats outside of the UN grew by a factor of 4.7 between the biennia 1992/1993 to 2004/2005.

“Experience in many countries has shown that the overlapping and sometimes duplicative commitments under multiple (global) instruments can produce tremendous challenges. Commitments to prepare inventories, reports, plans and public information programmes, can lead to in-country conflicts, confusion and wastage of resources, particularly for countries with limited financial, human and institutional capacity³”

MEAs, developing countries require access to resources in the form of technical, financial and policy expertise. They must also have the capacity to adapt and integrate international expertise and experience into their own national settings. There is a clear need for reforms to improve the efficiency, effectiveness and responsiveness of many organisations in developing countries to further the implementation of the MEAs.

How can we achieve what is needed?

For thematic clusters of MEAs, joint financial and administrative services can be established, including support services; resource mobilisation services; legal services; information technology services; and information services. This would be extended to coordination and communication of scientific findings and information, which would be linked to the permanent science-policy interface described above.

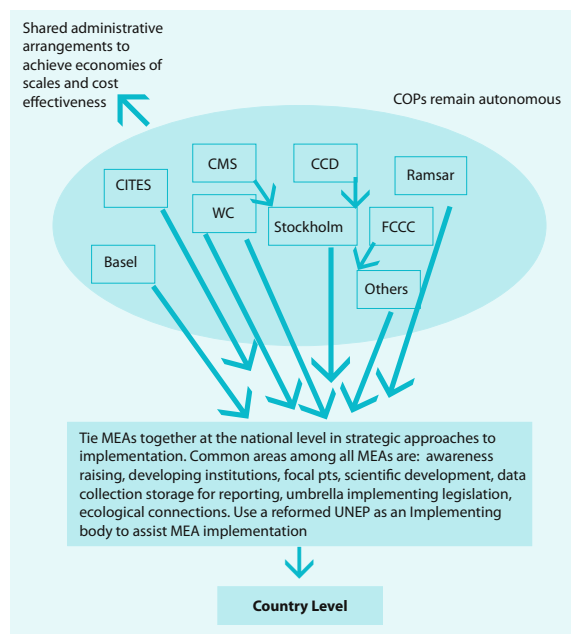
Where feasible, secretariats could be co-located, eliminating the need for expensive overhead costs. In addition, joint (either back-to back or simultaneous) meetings of COPs could be convened through the provision of joint conference services.

To address the effective implementation of MEAs, UNEP if

mandated through upgrading reforms could increase its presence in the regions and in countries through placing desk officers in country offices and deploying more of its staff to the regional offices. 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. In this regard, the aim of this assistance to support implementation of the MEAs would be to strengthen national capacities to:

- Raise awareness of the stakes and objectives of the MEAs;
- Mainstream the MEAs within national strategies;
- Develop effective cross-sectoral mechanisms and structures to implement the MEAs;
- Develop the long-term human and institutional capacity to comply with the obligations of the MEAs;
- Review ongoing projects and programmes with partners to identify potential synergies;
- Formulate, implement and monitor coherent projects making effective use of the existing human and financial resources;
- Mobilise additional, sustainable sources of funding;
- Harmonise the reporting of contributions towards implementation of the MEAs.

Diagram 1: Synergies Approach to MEA Administration and Implementation at National level



³ Synergies in National Implementation. The Rio Agreements. Proceedings of the Expert Meeting on Synergies among the Conventions on Climate Change, Biological Diversity, Desertification and the 'Forest Principles'. Israel, 17-20 March 1997 (UNDP, 1997).

