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OF WILD FAUNA AND FLORA

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Strategic and administrative matters

UNEP GOVERNING COUNCIL DECISION ON  
INTERNATIONAL ENVIRONMENTAL GOVERNANCE

The Secretariat provides herewith, for the information of the Standing Committee, a copy of a report of the Executive Director of UNEP on International Environmental Governance.

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**INTERNATIONAL ENVIRONMENTAL GOVERNANCE**

**Report of the Executive Director**

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\* UNEP/IGM/1/1.

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## Introduction

1. As we approach the World Summit on Sustainable Development in 2002, the environment remains high on the international agenda. Significant achievements have been made during the past 30 years. Since the 1972 Stockholm Conference on the Environment and the 1992 Conference on Environment and Development, steady progress has been made which has resulted in the establishment of a variety of institutional mechanisms designed to address specific environmental issues as well as the interface between the economic, social and environmental aspects of development.
2. These institutional mechanisms have, however, often been created without due consideration of how they might interact with the overall system, and questions have increasingly arisen concerning the coordination of this multifaceted institutional architecture.
3. The continued destruction of the natural resource base, declining financial resources and the realization that environmental problems are of such magnitude that the international community must address the continued sustainability of the planet in a more coordinated and coherent manner have resulted in an awareness that the international institutional architecture dealing with environmental issues must be strengthened. A series of intergovernmental decisions have addressed this issue and a number of initiatives have been launched to develop proposals on how the system could function better.
4. The 1997 Nairobi Declaration, adopted by the Governing Council of the United Nations Environment Programme (UNEP) and endorsed by the United Nations General Assembly, clearly establishes UNEP as “the principal United Nations body in the field of the environment” and clarifies its role as the “leading global environmental authority that sets the global environmental agenda, that promotes the coherent implementation of the environmental dimension of sustainable development and that serves as an authoritative advocate for the global environment”.
5. During 1998 within the overall reform effort of “Renewing the United Nations”, the Secretary-General appointed a Task Force on Environment and Human Settlements, which finalized its work in 1999 with the adoption of the “Report of the Secretary-General on environment and human settlements”. The work of the Task Force focused on a number of aspects, including inter-agency linkages, intergovernmental forums and the involvement of major groups, information, monitoring, assessment and early warning and the revitalization of UNEP and the United Nations Centre for Human Settlements (UNCHS) (Habitat). Its recommendations were considered by the Governing Council and adopted by the General Assembly in its resolution 53/242. One of these recommendations dealt with the establishment of an Environmental Management Group to address the issue of improving coordination between agencies and also between environmental conventions. The Group held its first meeting in January 2001. A second recommendation dealt with the creation of a Global Ministerial Environment Forum, to meet annually on the occasion of the Governing Council.
6. The first meeting of the Forum, held in Sweden in May 2000, adopted the Malmö Declaration which focused on crucial areas such as major environmental challenges of the twenty-first century, the relationship between the private sector and the environment, civil society and the environment and the 10-year review of the implementation of the outcome of the United Nations Conference on Environment and Development. As all these areas impact on the role of the environment in an increasingly global policy outlook, Governments agreed that the 2002 World Summit on Sustainable Development should “review the requirements for a greatly strengthened institutional structure for international environmental governance based on an assessment of future needs for an institutional architecture that has the capacity to effectively address wide-ranging environmental threats in a globalizing world. UNEP’s role in this regard should be strengthened and its financial base broadened and made more predictable.”
7. This conclusion was based, in part, on the present proliferation of structures, agreements and conferences, which has resulted in a heavy burden on developing countries in particular, many of which simply do not have the necessary resources either to participate in an adequate and meaningful manner, or to comply with the complex and myriad reporting requirements associated therewith. It is also becoming

apparent that weak policy coordination is resulting in missed opportunities to enhance coherence and synergy among the various instruments. The number of legal agreements dealing with environment and sustainable development is increasing while the average time taken to negotiate each treaty is decreasing. At the same time, the scale of problems to be addressed has widened – from the regional through the hemispheric to the global – while the number of sovereign States that have to participate in the negotiation of such legal arrangements has gradually burgeoned. Whereas the creation of the various legally binding conventions and protocols on the environment constitutes an outstanding achievement on the part of the international community, it also raises the need for continuing policy coherence among the various instrumentalities that exist in this area, at both the inter-agency and intergovernmental levels.

8. It is against this background that, at the twenty-first session of the Governing Council, in February 2001, Governments expressed increasing concern that the current governance structures do not meet the needs of the environmental agenda, and addressed the issue of international environmental governance. In decision 21/20 the Council provided for the further strengthening of UNEP, while decision 21/21, on international environmental governance, built on such elements as the Nairobi Declaration and the Secretary-General's report on environment and human settlements, but also called for a comprehensive policy-oriented assessment of existing institutional weaknesses, as well as future needs and options for strengthened international environmental governance, including the financing of UNEP.

9. A new model of international environmental governance must be predicated on the need for sustainable development that meets the interrelated social, economic and environmental requirements. The environmental problems of today can no longer be treated in isolation, but are inextricably linked to social demands, demographic pressures and poverty in developing countries, counterposed against excessive and wasteful consumption in developed countries. In addition, any approach to strengthen international environmental governance must command credible universal commitment and ownership on the part of all stakeholders, an undisputed authoritative basis and adequate, stable and predictable funding.

10. The majority of views expressed on reform in international environmental governance tend to support an incremental approach to strengthening and streamlining the current international environmental governance structure, with the starting point being the strengthening of the authority and mandate of UNEP to play effectively the role of global environmental authority – as envisaged in the Nairobi Declaration. The proliferation of legal instruments and proposals for umbrella conventions and the costs of geographical dispersal must also be addressed. Although promising steps were initiated by the General Assembly in resolution 53/242, as well as in a number of Governing Council decisions, the momentum must be maintained.

11. A wide range of options related to new international environmental governance structures have been proposed, and large volumes of literature have been circulating on this topic. However, in considering these options it must be clear that any new institutional structure will have to address not only the current deficiencies in coordination of policy, but also the crucial concerns of the developing world regarding capacity-building efforts, the transfer of environmentally sound technologies and a corresponding set of financial strategies. Agreement on these areas and, more importantly, guarantees to meet these requirements, are issues that Governments may wish to discuss.

12. Although it therefore appears that an enhanced international strategy or structure is needed to ensure global sustainable development, it also seems clear that any future agreement on the way forward will have to include a commitment by developed countries to additional responsibilities.

13. This report presents to the first meeting of the Intergovernmental Group on International Environmental Governance an overview of issues related to international environmental governance, as requested by the Governing Council in decision 21/21. The purpose of the report is to provide a common basis for delegations to initiate a meaningful discussion. It could serve as a starting point for the consolidation of an international consensus. It may be viewed as a "living document" that could undergo refinement and reorientation to reflect the consensus as it emerges. The following are covered by the report:

- (a) The current state of international environmental governance;
- (b) A review of the strengths and weaknesses of the existing arrangements;
- (c) Means of financing international environmental governance;
- (d) Needs and options for international environmental governance.

Further background information on multilateral environmental agreements, as well as a summary of selected papers, will be made available in UNEP/IGM/1/INF/1 and INF/2 respectively.

## I. OVERVIEW OF THE STATE OF INTERNATIONAL ENVIRONMENTAL GOVERNANCE

### A. The quest for a coherent system of international environmental governance

#### 1. The Stockholm Conference on the Human Environment

14. In June 1972, representatives from 113 nations met in Stockholm at the United Nations Conference on the Human Environment. The Stockholm Conference constituted the first attempt by the international community to address the relationships between environment and development at the global level. The Conference succeeded in putting environment on the global agenda, with the adoption of the Stockholm Action Plan, a first global action plan for the environment, which provided the basis for a standard agenda and a common policy framework to deal with the first generation of environmental action. A declaration of principles was adopted which provided the foundation for the development of international environmental law during the 1970s and 1980s. An important outcome of the Conference was the subsequent establishment of the United Nations Environment Programme. A search began for a new, more rounded concept of development related to the limits of the natural resource base, in which environmental considerations play a central role while still allowing opportunities for human activities. The Conference created an important impetus in countries and in the United Nations and other organizations in recognizing and addressing emerging environmental problems. As part of such international efforts, UNEP, from the mid-1970s onwards, embarked upon the establishment of regional seas programmes, under which conventions and action plans were drawn up as a framework for regional cooperation.

#### 2. Stockholm + 10

15. A decade after the Stockholm Conference, although there was a progress in developed countries in improving air and water quality, tightening the control of chemicals and conserving the components of nature, most developing countries were experiencing environmental destruction at a pace and on a scale never before seen. Many newly industrialized countries had suffered a massive deterioration of their environment; for them, environmental problems associated with their sudden industrialization and explosive urbanization were being added to the already heavy pressures arising from their underdevelopment and poverty. In many areas, environmental destruction had begun to undermine prospects for future development and possibly even global survival. The accelerating human impact on the Earth was rapidly outstripping the largely react-and-cure strategies and the modest and often derisory budgets put in place to deal with them. To mark the tenth anniversary of the Stockholm Conference, a session of a special character of the UNEP Governing Council was held in Nairobi in May 1982. It provided a unique opportunity to bring together the new generation of environmental decision makers from around the world to reinvigorate the standard environmental agenda, policies and institutions in the light of the experience of the 1970s and the emerging challenges of the time. At the end of the session of a special character, the Governing Council adopted a resolution citing the achievements of the United Nations in implementing the Stockholm Action Plan and the challenges that faced the international community. At the tenth session of the Governing Council, held immediately after the session of a special character, the Montevideo Programme for the Development and Periodic Review of Environmental Law was adopted to serve as strategic guidance for

UNEP in catalysing the development of international treaties and other agreements in the field of the environment.

### 3. The World Commission on Environment and Development

16. By resolution 38/161 of 19 December 1983, the General Assembly set up a World Commission on Environment and Development to propose long-term environmental strategies for achieving sustainable development to the year 2000 and beyond. The Commission was requested to consider ways and means by which the international community could deal more effectively with environment and development concerns. In 1987, after three years' work, it made comprehensive proposals and recommendations to promote sustainable development, including proposals for institutional and legal change. It summed up the chief institutional challenge of the 1990s as follows: "The ability to choose policy paths that are sustainable requires that the ecological dimensions of policy be considered at the same time as the economic, trade, energy, agricultural, industrial and other dimensions - on the same agendas and in the same national and international institutions."

### 4. The 1992 Earth Summit

17. In June 1992, exactly 20 years after the Stockholm Conference, world leaders met in Rio de Janeiro at the United Nations Conference on Environment and Development, the Earth Summit. The Conference was a significant turning point in redirecting national and international policies towards the integration of environmental dimensions into economic and developmental objectives. The outcome of the Conference, in particular Agenda 21 and the Rio Principles, became instrumental in promoting the development and strengthening of institutional architecture for environmental protection and sustainable development at the national and international levels. Chapter 38 of Agenda 21 outlines international institutional arrangements, and specifies tasks to be carried out by UNEP. Subsequently, in resolution 47/191 of 22 December 1992, the General Assembly adopted new international institutional arrangements, including the establishment of the Commission on Sustainable Development. The development of international regimes to address complex global environmental issues, such as climate change, biological diversity and desertification, was accelerated. In addition to Governments, civil society organizations, the private sector and other major groups of society have been increasingly recognized as essential in achieving the goals of sustainable development.

### 5. Rio + 5

18. In 1997, at its nineteenth special session, the General Assembly undertook a five-year review of the outcome of the Earth Summit and adopted the Programme for the Further Implementation of Agenda 21. The Programme recognized the progress made since the Rio Summit and the challenges that face the world community in pursuit of sustainable development, acknowledging a variety of governmental and non-governmental actors active in the field of the environment and sustainable development, and underscored the role of UNEP as the leading global environmental authority. The heads of State and government at the special session were of the view that a number of positive results had been achieved, but were deeply concerned that overall trends with respect to sustainable development were worse than in 1992. They emphasized that the implementation of Agenda 21 in a comprehensive manner remained vitally important and was more urgent than ever.

### B. The current state of international environmental governance

19. The complex web of international environmental governance may be highlighted by observing the structures of multilateral processes, multilateral agreements and consultative mechanisms that address environmental and environment-related matters. This section reviews the existing institutional structures, instruments and arrangements, including those in the United Nations system, multilateral environmental agreements, and available means for coordination and consultation.



## 1. Multilateral Processes

### (a) The United Nations system

#### (i) The General Assembly

20. Under Article 10 of the Charter of the United Nations, the General Assembly may discuss any question or any matters within the scope of the Charter or relating to the powers and functions of any organs provided for in it. The Assembly, which consists of all the Members of the United Nations (currently numbering 189), may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters, except where the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the Charter. The Assembly initiates studies and makes recommendations for the purpose of promoting international cooperation in the political field and encouraging the progressive development of international law and its codification, and promoting international cooperation in the economic, social, cultural, educational and health fields, and assisting in the realization of human rights and fundamental freedoms for all.

21. The Governing Council of UNEP reports to the Assembly, through the Economic and Social Council. The Assembly considers and makes recommendations on selected environmental and environment-related issues, including institutional arrangements and related international processes. Issues addressed by the General Assembly at its fifty-fifth session included: the report of the sixth special session of the Governing Council of UNEP, enhancing complementarities among international instruments relating to environment and sustainable development, climate change, the Convention on Biological Diversity, the Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, international cooperation to reduce the impact of the El Niño phenomenon, oceans and the law of the sea, outer space, Antarctica and environmental norms for certain aspects of disarmament.

#### (ii) The Economic and Social Council

22. The Economic and Social Council, consisting of 54 Members of the United Nations elected by the General Assembly, may make or initiate studies and reports with respect to international economic, social, cultural, educational, health and related matters and may make recommendations with respect to such matters to the General Assembly, to the Members of the United Nations and to the specialized agencies concerned. The Council performs such functions as fall within its competence in connection with the carrying out of the recommendations of the Assembly. It may coordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the Assembly and to the Members of the United Nations.

23. The Programme for the Further Implementation of Agenda 21, adopted at the nineteenth special session of the General Assembly, underscores that given the increasing number of decision-making bodies concerned with various aspects of sustainable development, including international conventions, there is an ever greater need for better policy coordination at the intergovernmental level, as well as for continued and more concerted efforts to enhance collaboration among the secretariats of those decision-making bodies. The Programme emphasized that, under the guidance of the General Assembly, the Economic and Social Council should play a strengthened role in coordinating the activities of the United Nations system in the economic, social and related fields.

#### (iii) The United Nations Environment Programme

24. As mentioned above, UNEP was established by the General Assembly following the Stockholm Conference, by resolution 2997 (XXVII) of 15 December 1972. Under the resolution, the UNEP Governing Council is composed of 58 members elected by the General Assembly and has the following main functions and responsibilities:

- (a) To promote international cooperation in the field of the environment and to recommend, as appropriate, policies to this end;
- (b) To provide general policy guidance for the direction and coordination of environmental programmes within the United Nations system;
- (c) To receive and review the periodic reports of the Executive Director on the implementation of environmental programmes within the United Nations system;
- (d) To keep under review the world environmental situation in order to ensure that emerging environmental problems of wide international significance receive appropriate and adequate consideration by Governments;
- (e) To promote the contribution of the relevant international scientific and other professional communities to the acquisition, assessment and exchange of environmental knowledge and information, and as appropriate, to the technical aspects of the formulation and implementation of environmental programmes within the United Nations system;
- (f) To maintain under continuing review the impact of national and international environmental policies and measures on developing countries as well as the problem of additional costs that may be incurred by developing countries in the implementation of environmental programmes and projects, and to ensure that such programmes and projects shall be compatible with the development plans and priorities of those countries;
- (g) To review and approve the programme of utilization of resources of the Environment Fund.

25. The General Assembly decided that Governing Council should report to it through the Economic and Social Council, which transmits to the Assembly such comments as it may deem necessary, particularly with regard to questions of coordination and the relationship of environmental policies and programmes within the United Nations system to overall economic and social policies and priorities.

26. At its nineteenth session, held in February 1997, the Governing Council adopted the Nairobi Declaration on the Role and Mandate of the United Nations Environment Programme, emphasizing that UNEP has been and should continue to be the principal United Nations body in the field of the environment. The role of UNEP, said the Council, is to be the leading global environmental authority that sets the global environmental agenda, that promotes the coherent implementation of the environmental dimension of sustainable development within the United Nations system and that serves as an authoritative advocate for the global environment. To this end, the Nairobi Declaration reaffirmed the continuing relevance of the mandate of UNEP deriving from General Assembly resolution 2997 (XXVII) and further elaborated by Agenda 21. The core elements of the focused mandate of the revitalized UNEP were declared to be the following:

- (a) To analyse the state of the global environment and assess global and regional environmental trends, provide policy advice, early warning information on environmental threats, and to catalyse and promote international cooperation and action, based on the best scientific and technical capabilities available;
- (b) To further the development of its international environmental law aiming at sustainable development, including the development of coherent interlinkages among existing international environmental conventions;
- (c) To advance the implementation of agreed international norms and policies, to monitor and foster compliance with environmental principles and international agreements and stimulate cooperative action to respond to emerging environmental challenges;

(d) To strengthen its role in the coordination of environmental activities in the United Nations system in the field of the environment, as well as its role as an Implementing Agency of the Global Environment Facility, based on its comparative advantage and scientific and technical expertise;

(e) To promote greater awareness and facilitate effective cooperation among all sectors of society and actors involved in the implementation of the international environmental agenda, and to serve as an effective link between the scientific community and policy makers at the national and international levels;

(f) To provide policy and advisory services in key areas of institution-building to Governments and other relevant institutions.

27. The Programme for the Further implementation of Agenda 21, endorsed the Declaration and stated that at the international and national levels there is a need for, inter alia, better scientific assessment of ecological linkages between the conventions, identification of programmes that have multiple benefits, and enhanced public awareness-raising with respect to the conventions. Such tasks should be undertaken by UNEP in accordance with the relevant decisions of the Governing Council and in full cooperation with the conferences of the parties to and governing bodies of relevant conventions.

(iv) The Commission on Sustainable Development

28. In its resolution 47/191 of 22 December 1992, the General Assembly endorsed the recommendations on international institutional arrangements to follow up the United Nations Conference on Environment and Development contained in chapter 38 of Agenda 21, particularly those on the establishment of a high-level Commission on Sustainable Development, and requested the Economic and Social Council to set up the Commission as a functional commission of the Council in order to ensure effective follow-up to the Conference, as well as to enhance international cooperation and rationalize the intergovernmental decision-making capacity for the integration of environment and development issues and to examine the progress of the implementation of Agenda 21 at the national, regional and international levels.

29. The Commission on Sustainable Development consists of representatives of 53 States elected by the Economic and Social Council from among the Member of the United Nations and members of its specialized agencies. In keeping with the recommendation of the General Assembly, the Commission has the following functions:

(a) To monitor progress in the implementation of Agenda 21 and activities related to the integration of environmental and developmental goals throughout the United Nations system through analysis and evaluation of reports from all relevant organs, organizations, programmes and institutions of the United Nations system dealing with various issues of environment and development, including those related to finance;

(b) To consider information provided by Governments;

(c) To review the progress in the implementation of the commitments contained in Agenda 21, including those related to the provision of financial resources and transfer of technology;

(d) To review and monitor regularly progress towards the United Nations target of 0.7 per cent of the gross national product of developed countries for official development assistance;

(e) To review on a regular basis the adequacy of funding and mechanisms;

(f) To receive and analyse relevant input from competent non-governmental organizations, including the scientific and the private sector, in the context of the overall implementation of Agenda 21;

(g) To enhance the dialogue, within the framework of the United Nations, with non-governmental organizations and the independent sector, as well as other entities outside the United Nations system;

(h) To consider, where appropriate, information regarding the progress made in the implementation of environmental conventions, which could be made available by the relevant conferences of parties;

(i) To provide appropriate recommendations to the General Assembly, through the Economic and Social Council, on the basis of an integrated consideration of the reports and issues related to the implementation of Agenda 21;

(j) To consider, at an appropriate time, the results of the review to be conducted expeditiously by the Secretary-General of all recommendations of the Rio Conference for capacity-building programmes, information networks, task forces and other mechanisms to support the integration of environment and development at regional and subregional levels.

30. The Commission holds an annual session to discuss matters concerning sustainable development on the basis of its multi-year work programme.

(v) The Regional commissions

31. The regional commissions of the United Nations have developed and implemented environmental programmes for the regions, and assisted the Governments in the regions to promote relevant activities in the field of the environment. The Economic Commission for Europe (ECE) has also been active in assisting its member States in developing and implementing regional conventions and protocols in the field of the environment.

(vi) Other United Nations bodies and specialized agencies

32. At UNCHS (Habitat), issues related to urban environment and human settlements are addressed in cooperation with UNEP.

33. The United Nations Development Programme (UNDP) has continued its programmes in sustainable development and the implementation of Agenda 21, particularly in the area of capacity-building.

34. The United Nations Conference on Trade and Development (UNCTAD) continues to examine linkages among trade, investment, technology, finance and sustainable development, and continues to work with UNEP, and in cooperation with the World Trade Organization (WTO), to support efforts to promote the integration of trade, environment and development.

35. Specialized agencies have developed and implemented programmes related to the environment in accordance with their mandates. Those with a mandate in environment-related areas include the Food and Agriculture Organization of the United Nations (FAO) (agriculture, forestry, fisheries, soil management, plant protection), the World Health Organization (WHO) (health and the environment), the United Nations Educational, Scientific and Cultural Organization (UNESCO) (environmental education, scientific activities, e.g. on oceans and solar energy), the World Meteorological Organization (WMO) (atmosphere and climate, including the Intergovernmental Panel on Climate Change (IPCC)), the International Labour Organization (ILO) (working environment and occupational safety), the International Marine Organization (IMO) (marine pollution, dumping at sea and safety in maritime transport of dangerous goods) and the International Civil Aviation Organization (ICAO) (environmental aspects of civil aviation). The International Atomic Energy Agency (IAEA) is responsible for matters related to nuclear materials, including nuclear safety and radioactive wastes. FAO, ILO, IMO and IAEA have been actively promoting the development of conventions and protocols related to the environment within their areas of competence.

36. The World Bank has a significant role to play in the protection of the environment and sustainable development, in particular through the volume of resources that it commands. WTO, through its Committee on Trade and Environment, has given consideration to the relationship between these two subject areas. It cooperates with UNEP and UNCTAD to consider aspects of the linkages between environment, trade and development.

(b) Other intergovernmental organizations and arrangements

37. Intergovernmental bodies and organizations outside the United Nations system have been active in setting out or influencing the course of action for Governments and other entities in the field of the environment. Such bodies and organizations are often based in a region or subregion with their own decision-making structures for environmental matters as well as environmental programmes for the area. In the case of certain organizations, legally binding regulations have been adopted and applied to the members (e.g. by the European Community and the Organization for Economic Cooperation and Development (OECD)).

38. Certain groups of countries – the Group of 8, the African Ministerial Conference on the Environment, the Council of Arab Ministers Responsible for the Environment, European Union Environment Ministers - regularly meet to consider general environmental policies and identify a general course of action on environmental matters.

39. In addition, regional financial institutions, such as regional development banks, have environment-related activities that influence the activities of Governments and other entities in the region concerned.

40. Intergovernmental forums and panels addressing specific environmental issues have been formed to provide scientific assessment (e.g. IPCC) or to establish policy priorities (e.g. the Intergovernmental Forum on Chemical Safety).

(c) Linkage between national and international institutional arrangements

41. Since the 1972 Stockholm Conference, most Governments have established a new ministry or government body responsible for environmental matters, or designated the existing bodies to carry out such functions. Sectoral issues have often been dealt with by more than two ministries or bodies in the government, which require national machinery to coordinate their sectoral policies. International institutional arrangements and processes have largely reflected such government structures at the national level.

(d) Networks

42. A myriad of networks on environmental matters among various actors, both governmental and non-governmental, at the national and international levels, have been developed. With the accelerated development and use of new information technology, the number of global networks is on the rise. Such networks are of value in, for example, the exchange of scientific, technical, legal or policy information contributing to informed decision-making and supporting environmental governance at the national and international levels, or in enabling groups of citizens to mobilize popular support for political action. The worldwide network of Global Environment Outlook collaborating centres is a good example.

(e) Major Groups

43. It has been recognized that addressing complex issues of environmental protection and sustainable development requires the participation of all sectors of society. Major groups represented by civil-society organizations (such as non-governmental organizations, academia and the private sector) form an essential part of the social structure to support and make effective systems of national and international environmental governance.

2. Multilateral Environmental Agreements (MEAs)

44. The Ninth Meeting on Coordination of the Secretariats of Environmental Conventions, held in Nairobi on 11 and 12 February 2001, analysed and agreed upon the information to be provided to UNEP by the secretariats of environmental conventions and related agreements for the preparation of this report. Information was supplied in the form of responses to a questionnaire by representatives of the secretariats of

the following 13 global multilateral environmental agreements and 3 regional seas conventions and action plans: the Convention on Biological Diversity (CBD), United Nations Framework Convention on Climate Change (UNFCCC), Convention to Combat Desertification (UNCCD), Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Convention on Wetlands of International Importance especially as Waterfowl Habitat, Convention on the Conservation of Migratory Species of Wild Animals (CMS), Convention Concerning the Protection of the World Cultural and Natural Heritage, Vienna Convention for the Protection of the Ozone Layer, Montreal Protocol on Substances that Deplete the Ozone Layer, Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, the future Stockholm Convention on Persistent Organic Pollutants, Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, Barcelona Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, Cartagena Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region, South Asia Cooperative Environment Programme.

(a) Development of multilateral environmental agreements

45. It is estimated that there are more than 500 international treaties and other agreements related to the environment, of which 323 are regional. Nearly 60 per cent, or 302, date from the period between 1972, the year of the Stockholm Conference, and the present.

46. Many of the earlier agreements were restricted in scope to specific subject areas, e.g., certain species of marine wildlife, selected chemicals, and quarantine procedures for plants and animals, among others, and were regional in focus. The largest cluster of pre-1972 agreements, albeit very heterogeneous, accounting for 40 per cent of the total, are biodiversity-related with half dealing with marine wildlife and three quarters being regional in character. Four global agreements which continue to be of major relevance to Governments are the International Convention for the Regulation of Whaling (1946), the International Plant Protection Convention (1951, revised in 1979 and 1997), the Convention on Fishing and Conservation of the Living Resources of the High Seas (1958) and the Convention on Wetlands (1971). Conspicuous by their absence or paucity in the years before 1972 are agreements dealing with land degradation, atmosphere, chemicals and hazardous waste, with all but a few being regional in character.

47. The period from 1972 to the present has witnessed an accelerated increase in multilateral environmental agreements. Of the 302 agreements negotiated, 197, or nearly 70 per cent are regional in scope, as compared to 60 per cent for the earlier period. The emergence of regional integration bodies concerned with the environment in regions such as Central America and Europe have contributed to this trend. In many cases, regional agreements are closely linked to global ones. Of greatest impact has been the emergence of the 17 multisectoral regional seas conventions and action plans embracing 46 conventions, protocols and related agreements. By far the largest cluster of multilateral environmental agreements is related to the marine environment, accounting for over 40 per cent of the total, the most notable being the United Nations Convention on the Law of the Sea (1982), new IMO marine pollution conventions and protocols, the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities (1995), and regional seas agreements and regional fisheries conventions and protocols. Biodiversity-related conventions form a second important but smaller cluster, including most of the key global conventions: the World Heritage Convention (1972), CITES (1973), CMS (1979) and CBD (1992). As in the earlier period, the cluster of nuclear-related agreements remains important, with the addition of nine global conventions and protocols and several regional agreements.

48. In contrast to the pre-1972 period, two new important clusters of agreements have emerged: the chemicals-related and hazardous-waste-related conventions, primarily of a global nature, and the atmosphere/energy-related conventions. The first include several ILO conventions that address occupational hazards in the workplace. Most recently, we have the adoption of the Rotterdam Convention (1998), and it is expected that the new convention on persistent organic pollutants will be adopted in Stockholm in May 2001. At the forefront of the atmosphere/energy-related conventions are the Vienna Convention for the Protection of the Ozone Layer (1985) and its Montreal Protocol (1987), and UNFCCC (1992).

49. From a combined global and regional perspective, the resultant proliferation of environmental agreements has placed an increasing burden on Parties to meet their collective obligations and responsibilities to implement environmental conventions and related international agreements. For example, according to the European Environment Agency, European Community countries are Party to as many as 65 global and regional environmental conventions and agreements.

50. Most of the growth in the importance of international environmental law in recent years has come from the increase in the number of binding and non-binding international environmental instruments. Although the number of agreements negotiated since 1972 is a remarkable achievement, they lack coherence with respect to a number of important new environmental policy issues, such as the precautionary principle and scientific uncertainty, intergenerational and intragenerational equity, the life-cycle economy, common but differentiated responsibilities, and sustainable development.

#### (b) Status of Multilateral Environmental Agreements

51. For the purpose of determining the status of the agreements, they were divided into three categories: core environmental conventions and related agreements of global significance; global conventions relevant to the environment, including regional conventions of global significance; and others, largely restricted in scope and geographical range. The focus here is on the first category.

52. The objectives and priorities of multilateral environmental agreements vary significantly, even within categories of agreements, but common threads link them. Sustainable development is the focus of some agreements, while others focus on the sustainable use of natural resources and the environment. The leading cross-cutting priorities are strengthening of the capacities of Parties to meet their obligations, enhanced membership of governments, public education and awareness, strengthened scientific basis for decision-making, and strengthened international partnerships. The most important cross-cutting issue is the assessment and management of pollution.

53. The scope of biodiversity-related conventions includes protecting individual species, ecosystems, habitat, protected areas and wildlife, with some promoting or safeguarding sustainable use. The atmosphere-related conventions focus on eliminating or stabilizing emissions of substances that affect the atmosphere, either directly or indirectly through production and consumption controls. The objective of the one major land convention is to combat desertification and the effects of drought in order to achieve sustainable development in affected areas. The chemicals-related and hazardous-waste-related conventions are aimed at protection of human health and the environment by phasing out, banning or restricting the use of certain chemicals, reducing or eliminating their production, and the environmentally sound transboundary movement and disposal of wastes. Regional seas conventions and related agreements focus on the protection and sustainable use of marine and coastal resources.

54. Most multilateral environmental agreements are legally binding instruments. Some are framework conventions that can develop protocols, others are self-contained and work through annexes or appendices. Protocols, annexes and appendices can either be revised or adjusted by decisions of the Parties, or formally amended by means of a ratification procedure. The non-legally binding agreements are all oceans-related or seas-related, and operate through plans of action adopted or approved intergovernmentally. One agreement operates as an umbrella convention fostering and operating through independent regional treaties.

55. The regional seas conventions have the distinction of being closely, and in some cases systematically, linked to global conventions and agreements through their protocols, amendments and annexes, and are proving to be useful regional instruments in supporting their implementation. The non-binding agreements also embrace in similar activities to the regional seas conventions, with parallel linkages globally.

56. Agreements adopted since 1972 generally have the following institutional elements: a secretariat, a bureau, advisory bodies, a clearing-house mechanism and a financial mechanism. Conferences and Meetings of the Parties are the ultimate decision-making bodies regarding implementation and evolution of each agreement, including the work programme, the budget, and the adoption of protocols and annexes. One

agreement, instead of holding a Conference of the Parties, meets during the UNESCO General Conference. Non-binding agreements do not have such bodies. Decisions on their work and budget are made by intergovernmental bodies that they report to, or, for agreements for which UNEP provides the secretariat, by the Governing Council.

57. Some agreements have established standing committees or hold inter-sessional meetings to review and advise their secretariats on implementation. Subsidiary bodies, which are generally advisory in nature, reporting to Conferences or Meetings of the Parties on scientific, technical or financial matters or on progress in implementation, may be internal or external, and may be standing bodies or ad hoc bodies with limited mandates. Clearing-house mechanisms may be operated by secretariats to facilitate the exchange of scientific, technical, legal and environmental information. A few conventions have established regional centres for training and technology transfer, or to assist in implementation.

58. Strategic business, operational or action plans are developed by many agreements, with single-year or multi-year horizons. Regional seas conventions and action plans serve as the legal framework for activities but most of them do not have a comprehensive strategy for implementation and do not have adequate funding. Practically all of the newer agreements lack corporate or business plans.

59. The scope and mandate of secretariats vary. Some prepare for and service meetings of, and provide administrative, technical and scientific support to, Conference of the Parties and subsidiary bodies. Others are additionally involved in implementing programmes and projects at the regional and country levels. One secretariat carries out scientific work itself. The regional seas are the most involved in implementation, some establishing regional action centres to implement certain elements of their action plans. Most framework conventions with protocols are serviced by joint secretariats that oversee implementation. One agreement had spawned four regional agreements, each with its own secretariat. An important function of secretariats is the monitoring and evaluation of implementation, including designing reporting formats and evaluating reports for Conferences and Meetings of the Parties. Some secretariats go much further, working cooperatively with international organizations (within and outside the United Nations system), bilateral donor agencies implementing agencies and non-governmental organizations, to support implementation.

60. The last two years have seen a remarkable rise in the signing of memoranda of understanding between conventions, signalling a period of increased political will for closer collaboration in the implementation of their programmes of work. This has occurred mainly among the biodiversity and regional seas clusters. Memoranda of understanding may pertain to joint work plans, enforcement, or the development of a clearing-house mechanism.

61. A broad range of civil society participates in the deliberations of many agreements, either as observers or as advisers, at public meetings or by invitation. Participation by non-governmental organizations may be supported financially by some agreements. Some secretariats maintain close working relationships with non-governmental organizations and civil society generally, and encourage their contributions. For other secretariats, in particular those of newer conventions where parties have not had an opportunity to establish procedures for involving civil society, contact may be very limited. Agreements recognize that the involvement of civil society is fundamental, and that involvement may include designing and monitoring implementation, identifying alternative approaches or substances, pressuring Governments, monitoring compliance and alerting authorities to violations.

## II. STRENGTHS AND WEAKNESSES OF THE EXISTING ARRANGEMENTS

62. The increasing complexity and fragmentation in international environmental governance is partly the consequence of the growing number of actors, both governmental and non-governmental, in the environmental field. In addition, the proliferation of United Nations and other international bodies that incorporate elements of the environmental agenda adds to the complexity. This chapter reviews some of the strengths and weaknesses of the existing institutional architecture.



### A. Strengths

63. In the three decades since the Stockholm Conference, the environment has increased in significance in public concern and action at the local, national and international levels. Governmental bodies, organizations and other institutional arrangements, within and outside of the United Nations system, have been established to address sectoral environmental issues or categories of such issues. Multilateral processes to consider environmental and environment-related subjects have grown significantly. Networks among various entities and major groups have been developed and are growing. Such trends in institutional development have accelerated since the Rio Summit in 1992.

64. At the national level, in many countries, both developing and developed, national environmental legislation and related institutional arrangements have been developed to provide a sound basis for addressing the major environmental threats, often on a sectoral basis and governed by various authorities responsible for specific issues.

65. Within the United Nations system, UNEP has continued to provide critical environmental assessment and information for decision makers and has served as a global policy-making forum on environmental issues. The institution of the Global Ministerial Environment Forum by the General Assembly as a principal international environmental policy forum was a response to the demands generated by proliferating environmental forums and the need to ensure policy coherence. Consultation and negotiation forums have taken place under the auspices of UNEP to develop global and regional environmental agreements for catalytic actions to support the activities of Governments and coordinate those of relevant organizations. UNEP has supported environmental actions at various levels with national and international partners, both governmental and non-governmental.

66. Many multilateral environmental conventions and other agreements have been developed to address sectoral environmental issues, providing an internationally agreed framework for environmental governance of such issues. UNEP's Montevideo Programme for the Development and Periodic Review of Environmental Law has provided the international community with a significant impetus to this end for the past two decades, contributing to the development of regional seas conventions and protocols and action plans around the world, as well as global treaties governing the protection of the ozone layer, the control of transboundary movements of hazardous wastes, biological diversity, information exchange on hazardous chemicals in trade and persistent organic pollutants. In addition to legally binding instruments, numerous non-binding international instruments have been developed to provide norms, principles, procedures, guidelines and codes of conduct to address environmental issues.

67. One of the central mechanisms by which international cooperation can be fostered is through the negotiation and adoption of international laws aimed at fostering the sustainable management of shared resources.

68. Clearly, 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. After Rio, the development of a distinct international law on the environment has been nothing less than remarkable. The number of such agreements is rising, whilst the average time taken to negotiate each treaty is steadily decreasing. At the same time, the scale of problems to be addressed has widened – from the regional through the hemispheric to the global – while the total number of sovereign States that have to sit down to broker such deals has gradually burgeoned. New concerns and principles – precaution, intergenerational and intragenerational equity, scientific uncertainty, sustainable development – have also arisen in recent years and now are not applied coherently and consistently in further development of relevant regimes.

69. The views on existing arrangements according to the responses to the questionnaire provided by the secretariats, include the following:

(a) Clustering provides opportunities for synergies, particularly within each cluster, where agreements have much in common in terms of issues to be addressed;

(b) Issues of common interest also cut across clusters - for example, trade, capacity-building, and the development of national legislation that supports the implementation of conventions and protocols at the country level;

(c) Opportunities exist for closer cooperation among the scientific bodies of the agreements;

(d) An increase is occurring in arrangements which enable conventions to work together in a more integrated manner, leading to the development of joint programmes of work in areas of common interest.

## B. Weaknesses

70. The Malmö Ministerial Declaration adopted by the first Global Ministerial Environment Forum in May 2000 noted with deep concern an increasing rate of deterioration of the environment and the natural resource base, an alarming discrepancy between commitments and action, an inadequate level of integration of environmental considerations into the mainstream of decision-making in economic and social development, and challenges to the implementation of multilateral environmental agreements.

71. To date, a number of Governments as well as other bodies and experts have reviewed the state of international environmental governance (see the list of references presented at the end of this document). They have identified certain problems and institutional weaknesses in current international environmental governance, which are enumerated in the following summary.

72. Current approaches to global environmental management and sustainability are increasingly felt to be inadequate. To date, international action has focused primarily on the transboundary movement of pollution and sectoral issues. There is a need to move toward a coherent and integrated management framework that addresses individual challenges in the context of the global ecosystem. New scientific knowledge is illustrating the close interconnectedness of environmental issues, calling the traditional "issue-by-issue" problem-solving approach into question. Increasing globalization, both economic and social, is also complicating matters. The current structure of international environmental institutions belongs to a different age. As we enter a new century, our approach to managing the global environment must reflect what we have learned over the past decades, and whether new and stronger arrangements and approaches are required to deal with global environmental issues.

73. Given the expanding environmental agenda and the fragmented approach to international action, the international community needs to consider whether the existing international institutional machinery can confront the challenges of the twenty-first century. The existing machinery remains fragmented, often with vague mandates, inadequate resources and marginal political support. The basic premise for charting a new course for institutional strengthening is that existing institutions do not and can not adequately address current and future needs.

74. The development of a large number of multilateral agreements on the environment has resulted in a very diversified body of rules. The institutional structures that govern international environmental agreements are fragmented. Agreements are often managed independently, though steps are being taken to improve their coordination and coherence.

75. The growing number of environmental institutions, issues and agreements are placing stress on current systems and our ability to manage them. The continuous increase in the number of international bodies with environmental competence carries the risk of reduced participation by States due to limited capacity in the face of an increased workload, and makes it necessary to create or strengthen the synergies between all these bodies. Weak support and scattered direction have left institutions less effective than they could be, while demands on their resources continue to grow. The proliferation of international demands has placed a particularly heavy burden on developing countries, which are often not equipped to participate meaningfully in the development and implementation of international environmental policy.

76. Structures which govern how production, trade and investment occur often pay inadequate attention to the task of protecting the environment and human life. Current economic governance structures should make rules that actively enhance existing environmental and social safeguards and strengthen the ability of national governments to respond adequately to new environmental concerns.

77. There is reluctance on the part of some agreements to cooperate with others. Many conventions continue to be inward-looking and are reluctant to share or give away part of what they perceive as their "sovereignty". Inadequate attention is paid to the harmonization of national reporting, though there is an initiative among environmental agreements under UNEP for the streamlining of national reporting focusing on the global biodiversity-related conventions. Attention needs to be given to harmonizing reporting under trade-related agreements in areas of common interest, such as work linked to customs and port authorities. There is inadequate implementation, coordination, compliance and enforcement at the national level, and environmental and performance indicators for measuring the effectiveness of an agreement are lacking. Funding for some agreements is clearly insufficient to address mounting demands.

78. A failure to keep in view the linkages between "distinct phenomena" like climate change, ozone depletion and biodiversity loss can cause, at best, waste of effort and funds and, at worst, exacerbation of the problem that was meant to be solved in the first place. There is a need for enhanced coordination between different environmental organizations and structures and multilateral environmental agreements.

79. International dispute settlement mechanisms are weak. The potential conflict between environmental regulation and the trade regime is often cited as a concern.

80. Competing for scarce funds and political commitment, existing institutions are frequently torn between competing priorities which are driven by overlapping and unfocused demands. There is a lack of financial resources for international environmental cooperation. The sense of disillusionment many developing countries have concerning implementation of Agenda 21 commitments by the industrialized countries continues to be an impediment to further progress. The lack of financial and technical resources to enable developing countries to prepare for, participate in and implement international agreements is a matter of serious concern.

81. International governance structures, and the rules that flow from them, must have the capacity to shape national policy. While international trade policy is rather effective in this regard, the impact of international environmental agreements is often less evident.

82. International environmental governance can be effective only if it is integrated into local, national and regional governance structures which encompass governments as well as civil society and the business sector. If international rule-making is to change local and national policy, then the citizens of affected countries have the right and duty to participate, either directly or indirectly, in this international decision-making. Whereas governance was seen largely as the job of governments for much of the twentieth century, there is an increasing realization that good governance requires the participation of all sectors of society.

83. If international environmental agreements are to be effective in the face of ongoing economic liberalization, it is important that they, too, have mechanisms which encourage compliance at the national level, and that economic imperatives are not given automatic precedence over environmental and social exigencies without a clear assessment of costs and benefits.

84. Solutions need to be based on the understanding that human society and the environment are interconnected and that, without a productive and viable environment, society cannot function. This means that environmental agreements need to take into greater consideration the development needs of the poor, and also that economic decision-making mechanisms need to operate with a fuller understanding of the linkages between the economy and the environment. An interlinked, holistic approach to international environmental governance which puts the environment and people's needs first is essential to confront the challenges posed by the new century.

85. An effective international environmental governance structure needs to enable, support and encourage policy-making and decision-making, leading to an effective response to environmental management needs which require such a response at the global level.

86. Despite the recent successes in the revitalization of UNEP, there continues to be a need to strengthen the existing international environmental institutional structure in relation to assessment and problem identification. There is a need to enhance existing capacity in this area, in particular through increased scientific capacity and additional financing. Among other things, there is a need to strengthen the capacity to address interlinkages in an operational context. It is not clear where and how in the existing structure integrated assessment functions can be followed by identification and assessment of response options, assessment of their costs and benefits and choice of appropriate response options, followed by action.

87. Despite some successes, national environmental ministries and agencies possess neither the political influence nor the resources necessary to implement sustainable development strategies across all areas of government activity; and the same problem is repeated amongst international institutions. Some aspects can be addressed through better coordination at the national level, leading to more coherent government engagements in international policy and decision-making processes. Policy integration at the national, regional and international levels has a poor record, and must be addressed as a fundamental requirement for effective environmental governance.

### III. FINANCING FOR THE GLOBAL ENVIRONMENT

#### A. Sources of finance

88. Several sources of financing for the environment exist today. They include official development assistance; multilateral financial flows associated with multilateral organizations, multilateral environmental agreements and multilateral financial mechanisms (some of which includes official development assistance); debt relief; private capital flows; non-traditional sources of financing; financing via the non-governmental sector; and domestic flows of capital.

89. In chapter 33 of Agenda 21, on financial resources and mechanisms, developed countries reaffirmed their commitments to reach the accepted United Nations target of 0.7 per cent of Gross National Product for official development assistance. Most countries have still not met this target. In 1998, only the Netherlands and the Nordic countries reached the target. Data show the actual weighted average effort of OECD Development Assistance Committee member countries to be 0.24 per cent. Aid flows rose in 1998, official flows in 1999 pulled back from the previous year's high. Following a five-year downward trend in official concessional finance, 1998 saw aid flows rise by US\$ 3.2 billion or 8.9 per cent in real terms to US\$ 52.5 billion. Of the 21 countries which are members of the Development Assistance Committee, 14 reported a rise in aid flows. However, the actual contribution allocated to environmental purposes directly is not easily apparent.

90. Data from the World Bank show that net flows from multilateral institutions (including the International Monetary Fund) were at their lowest level in the 1990s. While net flows from the Fund fell to -\$12.6 billion, multilateral flows excluding the Fund were also lower but nevertheless above pre-crisis levels. Almost the entire drop was in non-concessional flows (lending on market terms), with multilateral concessional credits remaining at a constant average of \$7 billion (net).

91. Within this context, the quality of multilateral flows is important in the context of ensuring that sustainability considerations are integrated into the programmes that correspond to these multilateral flows. Some efforts have begun to promote the integration of environmental considerations into policies and programmes. The Council of the Global Environment Facility (GEF), for example, requested the World Bank to integrate environmental considerations into its programme and a strategy for doing so is now under development. The Bank's environment portfolio, including projects with primarily environmental objectives, currently totals about \$15 billion in lending, of which an active portfolio of \$5.16 billion worth of

environmental projects existed at the end of fiscal year 2000. The International Development Association (IDA) is the World Bank Group's concessional lending window. It is endowed with a capital of \$20 billion following its twelfth replenishment, but its environmental activities have been limited and have failed to reach the level envisaged when Agenda 21 was adopted, particularly as government priorities have focused on borrowing for economic growth and combating poverty.

92. Within the OECD Development Assistance Committee, work is proceeding on developing criteria to assist countries in incorporating considerations of sustainability in development policies and programmes. This involves ensuring that principles of sustainability are taken into account in United Nations Development Assistance Framework (UNDAF) and the World Bank's Comprehensive Development Framework. The ultimate aim is greater convergence between the country-level frameworks.

93. The main mission of regional development banks is investment in mega-infrastructure in support of developmental activities, and thus their environmental portfolio is limited. However, the May 1999 decision of the GEF Council to consider the four regional development banks (the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development and the Inter-American Development Bank) as special executing agencies for GEF should primarily be seen as an instrument to enhance their environmental awareness and activities.

94. Specialized agencies of the United Nations such as FAO, UNESCO, WHO and WMO have components of their programmes dedicated to environmental activities. UNDP, the United Nations body for capacity-building has a prominent sustainable development programme comprising Agenda 21 networks and sustainable energy activities, and is a GEF Implementing Agency with a portfolio of \$1.2 billion. It has developed a multimillion-dollar action plan for capacity-building for consideration by the GEF Council.

95. UNEP in particular has been accorded responsibility for coordinating the environmental activities of the United Nations system in general. While its financial resources are much smaller than those of other multilateral agencies, this role requires its funding to be stable, adequate and predictable, an issue that has been reiterated by the Governing Council. Yet direct financial support for UNEP has not been adequate, nor has its share of the United Nations regular budget been adequate to support secretariat costs.

96. Contributions to the Environment Fund made on a voluntary basis. In 1998, 73 countries contributed to the Fund, while in 2000 only 56 countries did so. In addition, Governments make their contributions at their convenience, and the organization cannot commit funds that have not been paid. The time lags between pledges and actual payments can be very substantial.

97. In addition to its Environment Fund, UNEP administers trust funds earmarked for specific purposes by donors. During its first five years, UNEP administered only one trust fund. By 1996, it administered 68 separate trust funds, with contributions increasing from \$300,000 in 1978 to \$40 million in 1996. Counterpart contributions, UNEP's other source of finance, are earmarked contributions for individual projects, and must be sought in a context of competition with other projects.

98. In general, the United Nations regular budget has a low profile in funding UNEP, and while funding for the organization during the current biennium has reversed the past downward trend, the late and unpredictable submission of payments, amidst growing demands for enhanced programme delivery, presents a challenge which has consequences for the implementation of UNEP's role in the coordination of environmental activities in the United Nations system. Compounding this, there is a risk that the Environment Fund could lose its role as the main funding vehicle for UNEP, given that currently it represents only 51 per cent of UNEP's financial framework, thus reducing the freedom of the organization to act, and in turn, its legitimacy.

99. The growth in the number of international environmental agreements, with their own financial mechanisms, is bringing about a diversification and constant redefinition of the arrangements for the financing of the global environmental agenda. These are increasingly being driven by sectoral financial mechanisms, with integrated, cross-sectoral funding conversely on the decline. Accordingly, successful

efforts in providing global solutions to global environmental problems through the strengthening of international law will require the closer coordination of financial mechanisms.

## B. Multilateral Financial Mechanisms

100. Mechanisms that bring in new and additional sources of financing include GEF, the Global Mechanism of UNCCD and the Multilateral Fund for the Implementation of the Montreal Protocol. These innovative financial mechanisms were designed to support the flow of financial resources to developing countries and countries with economies in transition while not acting as a substitute for official development assistance and the required assistance expected from development partners.

101. Innovative financial mechanisms such as GEF, the Global Mechanism of UNCCD and the Multilateral Fund are not available as sources of funding for all multilateral environmental agreements. A variety of special trust funds have therefore been established under these agreements, financed by either voluntary or mandatory contributions from their Parties, and used to support the cost of maintaining secretariats, as well as other operations and activities. A limited number of other bilateral voluntary contributions are also received for certain projects and activities.

### 1. The Global Environment Facility

102. Following a three-year pilot phase, GEF was formally launched in 1994 to forge cooperation and finance actions addressing four critical threats to the global environment; biodiversity loss, climate change, degradation of international waters and ozone depletion. Related activities addressing land degradation are also eligible for GEF funding.

103. During its first decade, GEF allocated \$3 billion to project activities, supplemented by \$8 billion in additional financing, to 700 project, in 150 developing countries and countries with economies in transition. GEF was the only new funding source to emerge from the United Nations Conference on Environment and Development.

104. GEF projects are managed by three Implementing Agencies - UNDP, UNEP and the World Bank - and executed by a wide range of public and private partners, including Governments, non-governmental organizations and the private sector. In recent years, the four regional development banks, FAO and the United Nations Industrial Development Organization (UNIDO) have been accorded an opportunity to play more a direct role in proposing and managing GEF projects in collaboration with the implementing and executing agencies.

105. Within the strategic framework of the operational strategy, 13 operational programmes have been developed as well as a programme of enabling activities and a window for short-term urgent measures. To date, the operational programmes are:

(a) Biodiversity: arid and semi-arid zone ecosystems; coastal, marine and freshwater ecosystems; forest ecosystems; mountain ecosystems; agrobiodiversity

(b) Climate change: removal of barriers to energy efficiency and energy conservation; promoting the adoption of renewable energy by removing barriers and reducing implementation costs; reducing the long-term costs of low-greenhouse-gas emitting energy technologies; promoting environmentally sustainable transport;

(c) International waters: waterbody-based operational programme; integrated land and water multiple focal area operational programme; contaminant-based operational programme;

(d) Multi-focal: integrated ecosystems management.

106. At its last meeting, the Council considered draft elements of an operational programme for reducing and eliminating releases of persistent organic pollutants into the environment which would serve as the framework for the fourteenth operational programme.

107. The GEF serves as the financial mechanism for CBD and its Biosafety Protocol, and UNFCCC. At the final negotiations for an international instrument on persistent organic pollutants, it was agreed that a financial mechanism would be established to fund activities under the convention, and GEF was identified as the principal entity to be entrusted with the financial mechanism on an interim basis. It was also called upon to implement an operational programme for persistent organic pollutants as soon as possible.

108. As the financial mechanism of a convention, GEF is responsible for operationalizing the guidance approved by the Conference of the Parties concerning policy, strategy, programme priorities and eligibility criteria relating to access to and utilization of the resources of the mechanism in the area covered by the convention. It reports to each Conference of the Parties on how it has responded to the guidance approved by the Parties.

109. GEF's relationship with the global environmental conventions is a crucial component of its mandate and raison d'être. Its assistance is critical to advancing the aims of the conventions in developing countries, and to assisting such countries to integrate global environmental concerns into their sustainable development strategies, policies and actions.

110. As informed and effective advocates, non-governmental organizations have had a role in shaping the GEF and its agenda from the first. Today, participation by non-governmental organizations, both local and international, is crucial, not only at the project level but also at the policy level. A voluntary network of regional focal points encourages and strengthens their involvement in the governance of GEF, notably during Council meetings where GEF policies are approved, where non-governmental organizations are admitted as observers. Consultations involving a wide spectrum of such organizations from all geographical regions precede each Council meeting. Currently more than 400 non-governmental organizations are accredited to GEF. Approximately 700 non-governmental and community-based organizations actively participate in the execution of GEF projects. GEF's Small Grants Programme, administered by UNDP, provides grants of up to \$50,000 to finance activities of non-governmental and community-based organizations. Total GEF allocations to these projects exceed \$644 million.

111. The third replenishment of GEF was initiated in October 2000 with a planning meeting for the replenishment negotiations. The participants welcomed the initiation of the third replenishment and noted the importance of GEF as the leading multilateral funding mechanism for global environmental protection. They emphasized the importance of initiating the replenishment at an important juncture in the environmental agenda when there was increased awareness and political will to address the global environment both through strengthening commitments to implement existing conventions and through the development of agreements to address new challenges. Three replenishment meetings will be held in May, October and December 2001. It is expected that the replenishment will be agreed in January/February 2002.

## 2. The Global Mechanism of the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa

112. The Global Mechanism, is a brokering mechanism of UNCCD, has the task of increasing the effectiveness and efficiency of existing financial mechanisms and promoting the mobilization of financial resources for implementation of the Convention. It was established under the authority of the first Conference of the Parties to UNCCD in, September 1997. The International Fund for Agricultural Development (IFAD) houses the Global Mechanism, which itself is supported by a collaborative arrangement involving IFAD, the World Bank and UNDP.

### 3. The Multilateral Fund for the Implementation of the Montreal Protocol

113. The Multilateral Fund serves a single environmental convention, the Montreal Protocol on Substances that Deplete the Ozone Layer, and was set up under the London Amendment to the Protocol. The interim Multilateral Fund became operational in January 1991 and was made a permanent mechanism of the Protocol in January 1993. It provides financial and technical cooperation and technology transfer on a grant or concessional basis to designated Parties to meet Protocol commitments. The Multilateral Fund meets the agreed incremental costs of compliance based on an "Indicative List of Categories of Incremental Costs" developed by the Parties. It enables Article 5 countries to meet their commitments under the Protocol.

114. Through the Multilateral Fund, industrialized countries provide contributions and financial assistance to developing countries on the basis of incremental costs, based on the decisions of an Executive Committee that is composed of 14 Parties to the Protocol, 7 from industrialized countries and 7 from developing countries, with equal voting powers. The Executive Committee is charged with the approval of projects financed by the Fund.

115. The Multilateral Fund Secretariat is tasked with communication and liaison functions, expenditure oversight, monitoring of the activities of the implementing agencies and production of a range of reports for the Executive Committee, including analysis of every project. The secretariat's office and administration costs are borne by the Government of Canada in addition to its assessed contribution, as part of a host country agreement.

116. Projects and activities supported by the Multilateral Fund are implemented by four agencies: the World Bank, UNEP, UNDP and UNIDO. The Multilateral Fund is financed by contributions from Parties in convertible currencies or through bilateral cooperation. Up to 20 per cent of a donor's total contributions may be in the form of projects approved by the Executive Committee for implementation by a donor country instead of an international implementing agency. Contributions to the Fund have been received at a rate of 85 per cent of their pledged levels. Financial assistance totalling over \$1.1 billion has been provided to 120 developing countries. A \$440 million replenishment for the period 2000-2002 was concluded in December 1999.

#### C. Debt Relief

117. Data from the World Bank show that the total external debt of developing countries has levelled off, with more reliance on foreign direct investment and portfolio equity financing. In addition, short-term debt has edged lower as countries have continued to improve their national balance sheets. Debt burden indicators improved, with the ratio of short-term debt to reserves falling to 51 per cent, its lowest level in the 1990s. External debt problems nevertheless continue to impede the efforts of developing countries to achieve sustainable development, and this issue must be adequately dealt with if it is not to hamper efforts to improve governance of the global environment.

118. It is recognized that, for a large number of the poorest countries, debt has been a drain on the resources they need for investment in poverty alleviation, social advancement and environmental management. While progress has been made with implementation of the Heavily Indebted Poor Countries Debt Initiative, aimed at reducing the debt burden of such countries, its financing however is still not yet fully in place.

119. Debt-for-nature swaps are a tool that has been used to pay off developing country debt in return for the setting aside of an ecologically sensitive area for protection. Many swaps have, however, been implemented without regard to the needs of populations living within selected areas, and more effective public involvement is needed, in addition to efforts to address the challenges relating to design and implementation of such swaps.



#### D. Private Capital Flows

120. Since 1990, the volume of private net capital flows to developing countries has multiplied about sevenfold, despite a break in 1998 and 1999. However, at \$216 billion, long-term private flows in 1999 were below pre-1997 levels. In addition, private flows were narrowly concentrated in a few emerging market economies, with five countries receiving more than half (56 per cent) of such flows. These private capital flows consist of loans, bond issues by developing countries, portfolio investment (purchases of shares) and direct investment. Private foreign capital is now considered a major source of finance for development investment, but only for a few advanced developing countries. Many poorer countries that do not have significant raw material resources are excluded. Private capital is also concentrated on a few sectors, especially mining, industry and services like telecommunications and tourism.

121. Foreign direct investment is now the single largest source of foreign capital inflows. Its level increased each year in the 1990s, expanding from about \$35 billion in 1991 to \$192 billion in 1999. However, while in 1999 foreign direct investment accounted for approximately 85 per cent of private capital flows, the capital was again concentrated in a few countries, the share of the top five recipient countries jumping from 57 per cent in 1998 to 64 per cent in 1999. The poorest countries, particularly those in sub-Saharan Africa, are thus still most in need of increased official development assistance.

122. International environmental governance can be effective only if international private capital can be mobilized in such a way as to meet environmental goals. Barriers preventing investment for the betterment of the environment need to be addressed. Key obstacles to private investment in environmentally sustainable projects and programmes include:

- (a) Low and inconsistent demand for environmental technologies and services;
- (b) Market and policy risks;
- (c) Limited technical or financial intermediation capacity;
- (d) A limited menu of financial instruments;
- (e) Information gaps;
- (f) Limited access to technology.

#### E. Non-traditional financing mechanisms

123. The Third Expert Group Meeting on Financial Issues of Agenda 21 discussed proposals for taxes on carbon emissions, air transport and foreign exchange transactions (the "Tobin tax"), the carbon tax being viewed as a more desirable tool owing to its greater incentive and revenue-raising potential. Options to deal with the distributional impacts have been put forward, as well as criteria to make such taxes more economically justified and politically acceptable, such as leaving the bulk of the financial resources generated with national Governments and allocating a small percentage (say 1.5 per cent) for international purposes. One model has predicted that a global production tax of 80 per cent on fossil fuels would reduce carbon dioxide emissions by 50 per cent and generate \$600 billion in revenues.

124. Foundations also play an important role in mobilizing financing for the environment. A particularly innovative example is the United Nations Fund for International Partnerships (UNFIP), established by the Secretary-General in March 1998 as an autonomous trust fund. UNFIP is the central administrative vehicle within the United Nations for working with the United Nations Foundation, a mechanism established by Ted Turner and endowed with \$1 billion to support United Nations efforts on global issues.

125. The French Global Environment Facility (FGEF) is another innovative mechanism, set up by the French Government in 1994 to cover incremental costs arising out of measures taken to protect the global

environment and expected to be additional to the resources allocated by France under its official development assistance. Funding is provided for biodiversity conservation, greenhouse gas emission reduction, protection of international waters and preservation of the ozone layer. Support to countries under particular threat from desertification, especially in Africa, is a French development assistance priority. The Maghreb plus sub-Saharan Africa thus account for half the funding allocated by the Facility. It Steering Committee is the decision-making body and is made up of representatives of five member institutions. It is served by a secretariat provided by the Agence Française de Développement. The Facility was launched with 440 million francs for the period 1994-1998 and replenished with the same amount for the period 1999-2002. By the end of first phase, appraisals had been carried out or started on 72 projects. It is a bilateral mechanism and although its approach and operating methods are similar to those of GEF, it is independent of its multilateral counterpart and is an instrument of French foreign policy. The concerns of the two bodies are close, and so the French Facility's Executive Secretary is the alternate member for France on the GEF Council.

126. Other non-traditional mechanisms include the Financial Services Initiative operated under UNEP, which promotes the integration of environmental considerations into the financial and insurance sector's operations and services. Two other mechanisms under discussion and experimentation are the Kyoto Protocol's Clean Development Mechanism and Joint Implementation procedure. The Clean Development Mechanism is designed to assist non-Annex I Parties to achieve sustainable development. It would utilize certified emission reductions achieved through individual projects which reduce greenhouse gas emissions beyond what would have occurred in the absence of that project. Under Joint Implementation, emission reductions achieved through individual projects in Annex I countries can be credited towards achieving commitments under Article 3, if they can be demonstrated to reduce emissions beyond what would have occurred otherwise.

127. Ecolabelling schemes that enable consumers to make purchasing decisions that are more fully informed about the environmental characteristics of their production and "green" investment funds that enable investors to bring investment decisions into line with their environmental preferences, are other examples of innovative financial mechanisms. In one of its recommendations the Fifth Expert Group Meeting on Finance for Sustainable Development noted the need to develop a screening methodology for ranking investments according to sustainability criteria. Non-traditional financing mechanisms exist that have potential to mobilize large amounts of financial resources but have not been fully harnessed.

128. Civil society has played an important role in promoting the environmental agenda, and there is a strong likelihood that this role will increase in the future, taking into account the increased interest of civil society on issues related to the environment. The influence of environmental non-governmental organizations on the governance of the environment at all levels is high, ranging from large transnational non-governmental organizations managing multimillion-dollar budgets to much smaller ones on shoestring budgets but nevertheless often having a significant impact. Of total GEF financing to date, about \$650 million has been approved for activities executed by non-governmental entities. They should be considered important players in the mobilization of financial resources as well as in facilitating practices and policies that can promote more effective environmental management.

## F. Issues

129. The United Nations Millennium Declaration, adopted by heads of State and government in September 2000, noted their concern about the obstacles that developing countries face in mobilizing resources to finance sustained development and the need to ensure the success of the High-level International and Intergovernmental Event on Financing for Development, to be held in 2001. One estimate of the financing gap is \$625 billion per year. The heads of State and government at the Millennium Summit in New York agreed to implement an enhanced programme of debt relief for the heavily indebted poor countries and to grant more generous development assistance.

130. Progress has been made in identifying the necessary issues that need to be included in dealing with financing relating to development. Much of this has substantial impact on the effectiveness with which the

global environment can be governed. Agenda 21 estimated the costs of financing sustainable development at \$125 billion of external resources, - primarily official development assistance - and \$500 billion of domestic resource mobilization in the developing world. It is urgent that the targets under Agenda 21 be met, in particular with respect to that of 0.7 per cent of gross national product for official development assistance.

131. The effectiveness with which aid is delivered is also important. In order to prevent a fragmented and an ad hoc approach to mobilizing financial resources, the direction and quality of financial flows need better coordination. This, in turn, will prevent duplication of financed programmes and activities. Coordination mechanisms such as the OECD Development Assistance Committee already exist, but do not single out environment as a distinct issue. Expert meetings on the subject held to date show that coordination should involve more than the official donors, also embracing other players working to mobilize financial resources. To make official development assistance effective, strategic thinking is needed on the part of recipients. In addition, discussions show that this requires the integration of environmental issues within external and domestic finance. OECD's programme on capacity development in environment is one example in which the capacity of public institutions to consider environmental factors is enhanced.

132. With respect to foreign investment, it has been considered essential to establish clear criteria for foreign investment with favourable economic instruments designed for environmental purposes. To mobilize private capital for the betterment of the environment, national regulatory frameworks are needed to reduce the negative environmental impacts and to promote positive impacts. It is crucial to have a stable, predictable and transparent investment climate, based on a multilateral framework of investment supportive of sustainable development.

133. The 2002 review of the outcome of the Earth Summit will address financial resources and mechanisms as an overarching issue. It will be preceded by the Sixth Expert Group Meeting on Finance for Sustainable Development and the High-level Intergovernmental Conference on Financing for Development. The issues noted above and those relating to debt relief and the utility of non-traditional national and international financing mechanisms are likely to feature in the discussions. These issues will have a significant influence on the effectiveness of international environmental governance, as will the financing of multilateral environmental agreements, the potential of environmental non-governmental organizations in the context of mobilizing financial resources and that of environmental bodies charged with various functions relating to governance of the environment. With the myriad of financial sources and actors operating on environmental issues, fragmentation is nonetheless likely to continue in the absence of improved coordination and information systems on finances dedicated specifically to environmental issues.

134. The High Level Conference on Financing for Development offers an opportunity to review financing for sustainable development, particularly in the light of the declining trend in funding for environmental action in real terms. The financial contributions of major multilateral and bilateral organizations towards environmental issues are not easily discernible, and need to be made more transparent. Since Rio, the only major financing mechanism that has evolved has been GEF. However, its scope has been limited. The third replenishment of GEF and the meeting of the GEF Assembly in 2002 offer an opportunity to enhance the mandate of the Facility as the main financial mechanism of sustainable development in the context of Governing Council decision 21/25. Finally, the need to enhance the financial base of UNEP as the main entity in charge of the environment in the United Nations will also need to be revisited.

#### IV. NEEDS AND OPTIONS

135. United Nations Secretary-General Kofi Annan, in his preface to UNEP's Annual Report 2000, has emphasized that no crisis in history has so clearly demonstrated the interdependence of nations as the environmental crisis. The pressures wielded by the forces of economic globalization and technological change are transforming the global environment as never before. A number of trends that characterized the last decade of the twentieth century are coming to a head. They include the increasingly transboundary nature of environmental problems, the recognition of linkages between various environmental issues, the challenge of implementing the increasing number of multilateral environmental agreements, the growing

size and number of mega-cities, the increasing role of civil society in crafting and influencing public policies, and the transition towards a knowledge-based information society.

136. Governments are increasingly expressing concern that the current international environmental governance structure does not meet the needs of the environmental agenda. These concerns range from the proliferation of complex meetings that impose onerous demands on negotiators, particularly from developing countries, to the fragmentation of the agenda that prevents environmental issues from being dealt with in a comprehensive manner and does not allow the emergence of an approach that could underpin and support the implementation and monitoring of legally binding commitments under international law.

137. The growing concern was well articulated in the Malmö Ministerial Declaration, which stated that the 2002 World Summit on Sustainable Development “should review the requirements for a greatly strengthened institutional structure for international environmental governance based on an assessment of future needs for an institutional architecture that has the capacity to effectively address wide-ranging environmental threats in a globalizing world. UNEP’s role in this regard should be strengthened and its financial base broadened and made more predictable.”

138. In any model of reform in which the central importance of environmental compliance, enforcement and liability, as well as the observance of the Rio Principles, including the precautionary approach, is stressed, the particular circumstances of developing countries must be taken into account. Faced with declining terms of trade, tariff and non-tariff barriers to trade, debt, population growth and economic instability, developing countries require enhanced support to meet social and economic demands as they attempt to meet their environmental obligations.

139. A new model of international environmental governance must be predicated on the need for sustainable development that meets social, economic and environmental requirements. The environmental problems of today can no longer be dealt with in isolation. Any approach to strengthening and streamlining international environmental governance will need to respond to the following:

(a) Credibility – reformed institutional structures must command the universal commitment of all States, based on transparency, fairness and confidence in an independent substantive capacity to advise and adjudicate on environmental issues;

(b) Authority – reform must address the development of an institutional mandate that is not challenged. This should provide the basis for a more effective exercise of authority in coordinating environmental activities within the United Nations.

(c) Financing – adequate financial resources linked to broader development cooperation objectives must be provided. Despite several intergovernmental decisions to strengthen UNEP and provide it with “adequate, stable and predictable” financing, the level of the Environment Fund remains at approximately \$50 million per annum despite expanding mandates. Such a situation is not sustainable in the long run;

(d) Participation of all actors - given the importance of the environmental consequences of the actions of major groups, ways must be found to incorporate their views in decision-making.

140. Several ideas have been put forward to strengthen the governance of the global environment. Further findings emanate from the overview of the state of international environmental governance as presented in the preceding chapters. There are a number of options mentioned in the current debate on international environmental governance. The next section is thus written in such a way as to capture the gist of the various findings and ideas put forward to date in one consolidated overview, presenting a comprehensive picture of the potential directions in which to move forward. The options referred to below are cited from the references listed at the end of this document.

141. Options for strengthening international environmental governance have been put forward at two main levels:

- (a) At the level of organizational structures;
- (b) At the level of multilateral environmental agreements.

#### A. Options at the Level of Organizational Structures

142. At the organizational level, the overriding issue for strengthening international environmental governance is the need to improve the positive environmental impact of interventions. Options put forward can be grouped in the following areas:

- (a) Finance, trade and development organizations;
- (b) Environmental organizations and structures;
- (c) Coordination.

##### 1. Finance, trade and development organizations

143. Concern has been raised about the conflicting goals of large multilateral and bilateral bodies whose negative impact on the environment can compromise efforts towards improving international environmental governance. The solutions put forward to date are:

- (a) To strengthen processes for integrating environmental considerations into existing international financial, trade, technical and development organizations in an effort to enhance their operations in pursuit of sustainable development. This would include integrating environmental concerns in development cooperation, for example by means of the World Bank's Comprehensive Development Framework and the United Nations Development Assistance Framework;
- (b) To develop common environmental guidelines for export credit agencies to encourage integration of environmental considerations in investment decisions;
- (c) To establish a counterpart environmental body to WTO.

##### 2. Environmental organizations and structures

144. Ideas put forward to date reflect a need for a stronger agency for governing the global environment. Options put forward include:

- (a) Upgrading UNEP from a United Nations programme to a fully fledged specialized agency equipped with suitable rules and its own budget funded from assessed contributions from member States, through an annual session of announcements of contributions (based on the UNDP model), or under multi-annual negotiated agreements;
- (b) Utilization of the General Assembly or the Economic and Social Council in a more comprehensive institutional manner, for example by transforming the Economic and Social Council into a Council on Sustainable Development, requiring amendment of the United Nations Charter;
- (c) Establishment of a new World Environment Organization. Issues that would need to be addressed are: what functions it would have; whether it would act as an umbrella for the various multilateral environmental agreements; what financial resources and legal authority it would be endowed with;
- (d) Transformation of the Trusteeship Council, one of the six principal organs of the United Nations, into the chief forum for global environmental matters, including administration of multilateral

environmental agreements, with the Commission on Sustainable Development reporting to an Economic Security Council, rather than Economic and Social Council;

- (e) Some consolidation between UNDP and UNEP;
- (f) Broadening of the mandate of GEF to make it the financial mechanism of all global environmental agreements and link it more closely with UNEP to ensure coherence between policy and financing;
- (g) Raising the profile of the Commission on Sustainable Development to integrate the three "pillars" - environmental, social and economic - with greater involvement alongside GEF and other programmes and the United Nations Development Group, and involving ministries other than environment ministries alone;
- (h) Establishment of a new environmental court.

145. In order to decide on the most effective manner of strengthening international environmental governance, the following questions would need to be addressed:

- (a) How coordination and synergies on environment-related issues among various organizations would be improved;
- (b) How consistency of environmental standards and agreements would be enhanced, particularly in the context of environmental and trade agreements, and how disputes that arise would be dealt with;
- (c) What role civil society, particularly environmental non-governmental organizations, would have in strengthened governance of the global environment;
- (d) What role could be accorded to the private sector;
- (e) What level of financing would be available, and with what level of predictability and stability, to ensure that mandates are realized.

### 3. Coordination

146. Given the fragmented nature of organizations and structures dealing with environmental issues that have been referred to, ideas put forward have highlighted the need for improved coordination and synergies among the various entities involved. While a strengthened international environmental governance body as suggested above could be given the capacity to coordinate, it would nevertheless need tools or mechanisms for doing so. The ideas put forward to date for doing so are as follows:

- (a) Agreement on a structure to provide direction and coherence among agreements within the same category;
- (b) On coordination between trade and environment agreements, establishment of a dispute settlement scheme for trade-related environmental issues, with the dispute settlement process independent of the rule-making and negotiating functions of WTO. In addition, establishment of an agreement on trade-related environmental measures;
- (c) Improvement of UNEP's coordinating role, one suggestion being to bring together under the aegis of UNEP all organizations with a largely environmental remit in order to harmonize schedules, assessments, actions and strategies on a thematic basis;
- (d) Utilization of UNEP's recently established Global Ministerial Environment Forum for setting broad policy guidelines for international action on the environment;

(e) Creation within EMG of a coordination mechanism to cover all institutions with a largely environmental remit, UNEP and the secretariats of the multilateral environmental agreements, and promote environmental mainstreaming;

(f) Inclusion of UNEP in the United Nations Development Group;

(g) Establishment of a United Nations Environment Group, on the model of the United Nations Development Group, and based on strengthening of EMG.

147. In order to arrive at a meaningful way forward for strengthening the governance of the global environment, the options enumerated above would first need to be analysed to determine their feasibility and utility for the benefit of the global environment. The section below outlines a potential way forward for such an analysis to be carried out in a meaningful manner so that it may be of utility to the process at hand.

#### B. Options at the level of multilateral environmental agreements

148. Where multilateral environmental agreements are concerned, the overriding issue for strengthening international environmental governance is the fragmented manner in which they operate, primarily owing to lack of coordination. This has diminished ability of countries to implement the commitments made under existing agreements. Options put forward may be grouped in the following clusters of topics:

- (a) Coordination;
- (b) Monitoring the state of implementation;
- (c) Improving capacity and incentives for compliance;
- (d) Compliance and enforcement tools.

##### 1. Coordination

149. At the international level, the inadequate level of coordination among multilateral environmental agreements makes itself felt in difficulties arising from the dispersal of the location of secretariats between Montreal (for CBD and its Biosafety Protocol and the Multilateral Fund), Geneva (for CITES and the Basel Convention) and, Bonn (for UNFCCC, UNCCD and CMS), as well as the dispersal of venues of Conferences of Parties and their subsidiary bodies. In addition, inadequate coordination has been noted in the timings of these conferences: in December 2000, the Intergovernmental Negotiating Committee on the Convention on persistent organic pollutants met in Johannesburg, the CBD Intergovernmental Committee for the Cartagena Protocol in Montpellier, the Twelfth Meeting of the Parties to the Montreal Protocol in Ouagadougou and the Fourth Conference of the Parties to the UNCCD in Bonn. At the national level, the fact that the various conventions have different focal points also points to inadequate coordination. The focal points for CBD and CITES are in the ministries of agriculture, those for UNFCCC are in the ministries of energy or meteorological services, those for UNCCD are in forest or land ministries, those for UNEP are in ministries of environment and those for the Commission on Sustainable Development are in ministries of foreign affairs. In the absence of adequate national coordination of global environmental issues, it is difficult to ensure adequate international coordination. Ideas put forward to deal with this situation include:

- (a) Co-location of secretariats of agreements;
- (b) Development of umbrella conventions;
- (c) Utilization of one scientific body to address the scientific or thematic assessment needs of agreements functioning on a demand-driven basis, instead of dedicating distinct ones for each agreement;

(d) Use of UNEP's recently established Global Ministerial Environment Forum to clarify the main principles to be incorporated into the various agreements with a view to harmonizing their implementation.

## 2. Monitoring the State of Implementation of Multilateral Environmental Agreements

150. Responses to the questionnaire note the weaknesses in current capacities to monitor the state of compliance with multilateral environmental agreements. The current processes in place call for national reports to each agreement as a means of monitoring levels of implementation and compliance with conventions. However, some countries do not submit reports, and others only do so belatedly. Further, convention secretariats and their budgets are small. Suggestions include:

(a) Establishment of an authoritative body that has the capacity to verify the information that governments are to supply. The issue of reviewing the status of implementation on a country-by-country basis as opposed to an agreement-by-agreement basis would need to be resolved;

(b) Reinforcement of surveillance mechanisms to monitor the implementation of agreements.

## 3. Improving Capacity and Incentives for Compliance

151. Concern has been raised that multilateral environmental agreements are not being effectively implemented and that the lack of financial measures and incentives is the primary cause of this problem. In addition, the proliferation of agreements and their associated conferences and obligations places a burden on countries. The following incentives and measures have been suggested to improve compliance:

(a) Additional financing;

(b) Adoption of a centralized reporting process for the different agreements;

(c) Extension to the global level of the Århus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters or basic standards for transparency and participation;

(d) Efforts by Conferences of Parties to do more to encourage countries that have not yet ratified agreements to do so;

(e) Action to make some agreements enforceable for non-signatories;

(f) Identification of the precise role of technology transfer as an incentive;

(g) Drafting of a legal instrument on economic instruments which, while being common to the various agreements, would be specific for each issue;

(h) Drafting of a framework convention on economic instruments to promote the implementation of all multilateral environmental agreements.

## 4. Compliance and Enforcement tools

152. The ideas put forward to date note the inconsistencies between global trade rules and multilateral environmental agreements. Solutions for improving consistency and enforcement include the following:

(a) Revision of the environmental exceptions to WTO rules to clarify that trade measures taken in pursuance of multilateral environmental agreements are protected from challenge at the trade body;



- (b) Establishment of a complaints system with defined roles for the secretariats of environmental agreements in processing such complaints, the powers of Conferences of Parties to rule on them and the range of measures that could be taken (ranging from assistance measures to economic sanctions);
- (c) Establishment of a dispute settlement mechanism (conciliation, negotiations, etc). Issues that would need analysis include whether it would be centralized or specific to each agreement, utilizing a new court, the International Court of Justice, etc. ;
- (d) Establishment of an environmental ombudsman or a centre for amicable settlement of disputes, possibly under the auspices of UNEP;
- (e) Implementation of common regulations on the subject of environmental liability as an instrument prompting Parties to respect their obligations. Failure to do so would lead to their being held liable over and above the traditional reprobation familiar in international politics;
- (f) Institution of sanctions and penalties for non-jurisdictional aspects.

### C. Conclusion

153. As the Secretary-General pointed out, "there is no shortage of ideas on what should be done. ...What we need is a better understanding of how to translate our values into practice, and how to make new instruments and institutions work more effectively. ...We must work towards establishing systems that are governed by people and institutions according to commonly defined rules and mechanisms. We must use these systems to ensure that all parties concerned contribute, and that they all benefit from the efficient and environmentally sound use of resources - whether natural or man-made, whether already available or yet to be developed. We must apply universal values to safeguarding local diversity. And we must build global public awareness, so that individuals and groups all round the world can understand what is at stake, and join in the effort."

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