

## INTERNATIONAL ENVIRONMENTAL GOVERNANCE: LESSONS FROM UNEA AND PERSPECTIVES ON THE POST-2015 ERA

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### ABSTRACT

The inaugural meeting of the United Nations Environment Assembly (UNEA) held in June 2014 in Nairobi, was a culmination of more than four decades of environmental governance since the United Nations Environment Programme (UNEP) was established in 1972 in Stockholm. The meeting addressed weighty and contentious issues including strengthening of UNEP's role in promoting environmental governance and enhancing science-policy interface. Yet despite the historical significance of the meeting following universalization of the governing body of UNEP and current debates on the post-2015 development agenda, questions persist about the role of UNEP, its establishment, performance, and fragmentation of programmes and secretariats of the multilateral environmental agreements associated with it.

This paper reviews the outcome of the inaugural UNEA session, while developing a political economy account of institutional arrangements of international environmental governance to clarify the potential for, and barriers to effective environmental reform. Multilaterally, international environmental governance continues to exhibit elements of complexity, fragmentation, lack of coordination as well as redundancy. In more critical terms, lack of policy integration between environmental regimes is a concern of environmental governance that the new UNEA should address as a matter of priority. Furthermore, incoherent policy objectives in international environmental law often characterised as a governance patchwork have been criticized for their economic orthodoxies that only serve to marginalize

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and delegitimize alternative modes of environmental governance. In this regard, a core part of UNEA's institutional legitimacy depends on its success in coevolving to keep up with environmental challenges as they themselves change, as well as enhancing consensus-based stakeholder engagement, perspectives, and participation on environmental governance. This will be its true litmus test on how it responds coherently and effectively to international environmental governance in a post-2015 development world.

**Keywords:** International environmental governance, institutional arrangements, UNEA, political economy, fragmentation, SDGs, post-2015 goals

## 1. INTRODUCTION

Nearly a century ago, American industrialist Henry Ford observed that coming together is a beginning; keeping together is progress; working together is success.<sup>2</sup> Hopefully this holds as well for the historic inaugural session of the United Nations Environment Assembly (UNEA) of the United Nations Environment Programme (UNEP), held in June 2014. Meeting under the overarching theme of sustainable development goals and the post-2015 development agenda, delegates took part in the five days of plenary sessions, committee meetings, informal consultations, side events, and several working and contact groups to consider draft decisions. Nearly 1,200 participants attended the sessions including environment ministers, heads of international and intergovernmental organizations, government representatives, business leaders and civil society representatives.

The high-level segment of the assembly-gathering themed 'a life of dignity for all' attracted representatives of 170 UN member states, 80 environment ministers and international leaders including UN Secretary-General Ban Ki-moon, the President of the 68<sup>th</sup> United Nations General Assembly John Ashe, and Prince Albert II of Monaco. Delegates adopted decisions and resolutions on key environmental issues on, *inter alia*: strengthening of UNEP's role in promoting air quality; prioritizing and mainstreaming chemicals and waste management in national development plans; implementing Principle 10 of the Rio Declaration on Environment and Development; enhancing science-policy interface; illegal trade in wildlife; ecosystem-based

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2 Erika Andersen, 2013. 21 *Quotes From Henry Ford On Business, Leadership And Life*. Forbes. Available at <<http://www.forbes.com/sites/erikaandersen/2013/05/31/21-quotes-from-henry-ford-on-business-leadership-and-life/>> accessed October 7, 2014.

adaptation; and marine debris and microplastics. In addition to the ministerial discussions, the UNEA meeting convened two symposia on financing a green economy and the environmental rule of law to address key aspects of environmental sustainability. However, questions persist about what role UNEA should aspire to distinguish itself as a robust policymaking platform for reinforcing environmental action in a post-2015 development era.

This paper develops a critical political economy account of international environmental governance with special reference to UNEA and the post-2015 development agenda, its evolution and constitution of related institutions in order to improve upon our understanding of the current international reforms, and the bargains that underpin them. It also clarifies thinking about the potential for strengthening UNEP institutional arrangements of environmental governance and analyzes reasons for fragmentation of global environmental governance architectures that goes beyond dyadic overlaps between individual regimes. It reflects on intergovernmental processes addressing the development agenda for the post-2015 era, the historical, political and material elements of constitution and reforms of multilateral environmental agreements (MEAs), as contained in *The Future We Want*,<sup>3</sup> which defined a number of targeted action areas for the achievement of sustainable development as well as the promotion of a green economy.<sup>4</sup>

For the success of this account, however, it is also pertinent to understand political and historical elements of evolution of UNEP's governing body,<sup>5</sup> its reconfiguration and universalization as UNEA. These are:

What is international environmental governance?; how are the key contours, as well as the *practice* of environmental governance, which drive inquiry into international environmental governance issues addressed?; who governs, what is governed and how do they govern?; how are appropriate institutional arrangements for sustainable governance pertinent to the debates and governance on sustainable development goals (SDGs) in a post-2015 development world established?; and what are the viable funding mechanisms for obtaining the objectives defined therein?

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3 UN General Assembly, 2012. Resolution A/66/L.56: *The Future We Want*. July 27, 2012. The UN General Assembly in resolutions 66/288 and 67/213 endorsed the Rio+20 outcome document, *The Future We Want*.

4 Ibid [paras. 104–244].

5 UNEP Governing Council was established pursuant to article 22 of the United Nations Charter. At its first universal session in 2013 the Council adopted decision 27/2, in which it invited the UN General Assembly to adopt a resolution to rename the Governing Council as the United Nations Environment Assembly (UNEA) of the United Nations Environment Programme (UNEP).

The first part of the paper reflects on the dominant themes of enforcement of environmental treaties and that of strengthening institutional arrangements of environmental governance. The second part articulates historical account of the emergence of UNEA, paying particular attention to UNEP's institutional form, catalytic functions, location and the changing demands in international environmental governance that require more sophisticated and critical approaches, visions, models and tools for environmental sustainability. The third part elucidates the decision and resolutions adopted at the first session of UNEA. The fourth part reflects on the insights and critical political economy account of the nature and development of UNEA, providing examples of insights into continued efforts to strengthen UNEP to support implementation of the post-2015 development agenda and coordination of multilateral environmental agreements practice that help to address the questions outlined above. Finally, the paper concludes with reflections on the benefits that might be derived from strengthening institutional arrangements of global environmental architecture.

## 2. INTERNATIONAL ENVIRONMENTAL GOVERNANCE: INSTITUTIONAL PERSPECTIVES

The idea of improving enforcement of, and strengthening institutional arrangements of environmental treaties are two dominant themes in international environmental governance.<sup>6</sup> For this reason, it is important to trace how these two issues were handled between the 1972 Stockholm and 2012 Rio conferences, and later at the first session of UNEA in June 2014, in order to highlight salient historical events and facts that explain how the international community has responded to the problems of environment. But before then we need to understand the meaning of international environmental governance (IEG). The International Institute for Sustainable Development (IISD) defines global environmental governance as: "the sum of organizations, policy instruments, financing mechanisms, rules, procedures and norms that regulate global environmental protection."<sup>7</sup> According to the UN Joint Inspection Unit, the international environmental governance

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6 Peter Newell, 2008. "The Political Economy of Global Environmental Governance," *Review of International Studies*, ISBN 507529 (2008): p. 510; and Maria Carmen Lemos and Arun Agrawal, 2006. "Environmental Governance" *Annual Review of Environment and Resources* 31: 297-325: p. 310.

7 Adil Najam, Mihaela Papa, Nadaa Taiyab, 2006. *Global Environmental Governance: A Reform Agenda*. International Institute for Sustainable Development (IISD). ISBN 1-895536-91-x (2006): p. 9.

consists of four major pillars, *inter alia*: coherent decision-making and objective-setting for international environmental policies among different environmental agreements and institutions; management and operationalization of the policies and decisions; institutional architecture to implement and coordinate environmental policies and decisions; and coordination of the effective implementation of IEG decisions at the country level.<sup>8</sup>

These definitions are remarkably consonant with the definition of global environmental governance discussed by Beyerlin et al., as a “multi-actor governance system which extends beyond traditional actors (such as states and international organisations) and includes non-governmental organisations, in particular, activist groups, networks of scientists, business associations and policy research institutions.”<sup>9</sup> Above all, IEG is increasingly building new forms of cooperation beyond the traditional intergovernmental negotiation that, at least formally, is still the primary actor to include non-state actors who are becoming part of non-hierarchical, norm-making, norm-setting and norm-implementing institutions of environmental sustainability, and its operationalization. For example, since 2008, there has been remarkable evolution in strengthening environmental governance.<sup>10</sup> With respect to differentiation, segmentation and fragmentation, institutional arrangements is thus a vital component of a holistic international environmental framework as it has the ability to influence coordination, system-wide coherence and mainstreaming of the environmental dimension at the phase of sustainable development.<sup>11</sup>

8 Tadanori Inomata and Jean Wesley Cazeau, 2008. UN Joint Inspection Unit. *Post-Rio+20 Review of Environmental Governance within the United Nations System*, UN Doc. JIU/REP/2014/4 (2014): p. 2; Also See generally UNEP/IGM/2/INF/3 for details on the definition of international environmental governance agreed at the Consultative Meeting of multilateral environmental agreements (MEAs) on IEG on April 12, 2001.

9 Ulrich Beyerlin and Thilo Marauhn, 2011. “International Environmental Law.” *Devon*: Hart Publishing, p. 244.

10 Tadanori Inomata and Jean Wesley Cazeau, 2008. UN Joint Inspection Unit. *Post-Rio+20 Review of Environmental Governance within the United Nations System*. [p. 6].

11 Initiatives undertaken at the international level on environmental governance to date have had limited success in improving system-wide coherence, reducing costs and improving efficiency. In June 2014, the Committee for Development Policy—an expert body of the UN Economic and Social Council (ECOSOC)—wrote a policy note titled, *Global Governance and Global Rules for Development in the Post-2015 Era*, in which they argued that global environmental governance currently exists as “a fragmented set of poorly supported rules and a group of international institutions with partial competencies, overlapping one another with informal mechanisms for dialogue and multiple and varied agreements at a bilateral and regional level” p. 42; Also see Alexander Betts, ed., 2011. *Global Migration Governance*. Oxford, United Kingdom: Oxford University Press; and Bimal Ghosh, ed., 2000. *Managing Migration: Time for a New International Regime?* Oxford: Oxford University Press.

The Rio+20 meeting marked an inflection point in IEG as world's governments recognized that the international institutional framework for sustainable development should be consistent with the Rio Principles, build on Agenda 21 and the Johannesburg Plan of Implementation. Rio+20 was preceded by a long line of mega conferences.<sup>12</sup> Although based on analysis of both proximate political factors and deeper social and historical determinants of state action, the outcomes of those mega-summits remain mixed,<sup>13</sup> the preparatory processes especially of UNCED, Rio+20 and indeed UNEA have benefited from the lessons learned from the pioneering work of UNEP. Further, these intergovernmental tracks and processes constitute a significant background to the (re) constitution, evolution and development of international environmental law in the last four decades, as well as the steady spread of global norm of environmentalism in the global North and South.<sup>14</sup> Since its establishment in Stockholm four decades ago, UNEP has carried out a number of successful activities to discharge its catalytic and coordinating role in the field of environment within the United Nations system, albeit under a limited institutional mandate.<sup>15</sup> Its focus has steadily grown from addressing *first generation* environmental problems namely, air and water pollution, and soil (land degradation) to *second generation* environmental

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12 Rio+20 was preceded by the 1972 Stockholm Conference on the Human Environment, the 1992 UN Conference on Environment and Development (UNCED or the Rio Earth Summit); and the 2002 World Summit on Sustainable Development (WSSD). Four famous cornerstones of international environmental law and first institutional framework emerged from Stockholm, including the Stockholm Declaration; the Action Plan for the Human Environment; the creation of UNEP; and the voluntary Environment Fund. The international community has followed the multilateral, mega-summit approach with the subsequent conferences in Rio de Janeiro in 1992 and Johannesburg in 2002.

13 Lucy H. Ford, 2003. "Challenging Global Environmental Governance: Social Movement Agency and Global Civil Society." *Global Environmental Politics* 3(2): p. 122.

14 Peter Newell, 2008. *The Political Economy of Global Environmental Governance*, Review of International Studies, [p. 517], laments the continued reduction of environmental governance especially within the International Relations (IR) purview to the study of international environmental law and the institutions that produce it and enforce it, in spite of the growing attention to the means in which inter-state bargains can be aided by non-state actors. Furthermore, as global environmental 'culture' spreads it gradually envelopes more states in a world institutional structure, creating a social system that subsumes the traditional international political world. Also See, Meyer, J.W., D.J. Frank, A. Hironaka, E. Schofer and N. Brandon Tuma (1997.) *The Structuring of a World Environmental Regime, 1870-1990*, International Organization 51(4): p. 623-9, for detailed evaluation of the global norm of environmentalism.

15 Maria Ivanova, 2010. "UNEP in Global Environmental Governance: Design, Leadership, Location." *Global Environmental Politics*, 8(1) (2010): p. 42.

problems,<sup>16</sup> such as acid rain, stratospheric ozone layer depletion, climate change, deforestation and desertification, biodiversity loss, and chemicals and wastes management. It is against this background that the next section sets out to analyze the historical account and determinants of the emergence of UNEP and explore some of the key procedural challenges.

### 3. A VIEW FROM THE CONFERENCE: OUTCOMES OF THE FIRST UNEA SESSION

Questions persist about the role of UNEP, its establishment, location, performance, and the conventions and secretariats of the MEAs associated with it.<sup>17,18</sup> It may, therefore, be useful to revisit some of the salient historical events that led to the establishment of UNEP in Stockholm in 1972. UNEP has come a long way since the times when environmental agenda was frequently regarded as the “preoccupation of the few at the expense of the many or “the luxury of the rich at the expense of the poor.”<sup>19</sup> The first session of UNEA therefore marked a coming of age of global environmental governance, as for the first time, all 193 UN member states were represented along with their multi-stakeholder partners—the most significant transformation and reconfiguration to international environmental governance since UNEP’s creation. As noted above, at its first universal session the UNEP’s governing body adopted decision 27/2, and decided UNEA would set global environmental agenda, provide overarching policy guidance on emerging environmental challenges, as well as foster partnerships for achieving environmental goals and resource mobilization.<sup>20</sup>

16 Gabriela Kütting, 2003. “Globalization, Poverty and the Environment in West Africa: Too Poor to Pollute?” *Global Environmental Politics*. 3(4): 42-60: p. 49.

17 Ulrich Beyerlin and Thilo Marauhn, 2011. “International Environmental Law.” *Devon* [p. 250].

18 Maria Ivanova, 2010. “UNEP in Global Environmental Governance: Design, Leadership, Location.” *Global Environmental Politics* [p. 31-33].

19 At Stockholm, debates on UNEP’s functions and institutional arrangements remained contentious due to governments simply adamant to surrender legislative and enforcement powers on environmental decision-making to a supranational body. Thus UNEP emerged from Stockholm as a coordinating body with a limited mandate and without operational functions, but with the possibility of evolving and (re) constituting its coordinating and catalytic role and functions based on the changing circumstances for environmental action within the UN system. Forty years later at Rio+20, debate over coordination and strengthening international environmental governance through a specialized agency status for UNEP continued. For this, delegates made a few institutional rearrangements, e.g. establishment of UNEA as a visible sign of the enhanced status of UNEP to allow it to contribute effectively to global solutions, provide effective leadership on international environmental governance, and boost UNEP’s legitimacy; UNEP; *Our Planet: The magazine of the United Nations Environment Programme*. ISSN: 1013-7394 (2014).

An area of intense debate since the Stockholm Conference has been the institutionalization of a single-window, coordinated funding mechanism for action plans and outcome policy documents.<sup>21</sup> It is vital to note, however, that at Stockholm the question of incremental costs for integrating environmental dimension into development programmes, in the implementation of Stockholm's Action Plan, was a key focus and concern of developing countries<sup>22</sup> just like new and innovative funding mechanisms became their concern with respect to the implementation of Agenda 21, for which Global Environment Facility (GEF) was established.<sup>23</sup>

### ***A. Unplugging UNEA: Mobilizing Private Capital to Finance Green Economy***

At the UNEA Conference, focus seemed to have shifted from the creation of UN Environment Organization (UNEO) or World Environment Organization to financing the green economy through mobilization of private capital alongside public finance. In this regard, there was wide support for long-term financing strategy focused on investment in resource efficiency, environment in markets, use of regulatory incentives prudently, as well as elimination of negative price distortions. Mobilization of private capital was backed by several international organizations at the first UNEA session, including the UN Conference on Trade and Development (UNCTAD).<sup>24</sup> In its 2014 *World Investment Report*, UNCTAD points to a discernible “investment gap” between available project finance and what is required for scaling

20 Paragraphs 14 and 15 of decision 27/2 stressed the importance of regional ministerial environment forums for which UNEP serves as the secretariat, and invited them to contribute to the work of UNEP's governing body, as well as called on UNEP to assist countries in implementing national environmental programmes, policies and plans. However, strong regional presence for UNEP as well as support for countries in implementing national programmes require linking up with UN regional commissions, funds, programmes, as well as with MEAs such as the Basel Convention, the Montreal Protocol, the Stockholm Convention, and the Convention on Biological Diversity to promote compliance, coherence and synergies; UNEP Governing Council decision 27/2 (2013). For detailed evaluation, See UNEP/GC.27/17.

21 GEF is one example of experiment in coordinated funding. See Adil Najam, Mihaela Papa, Nadaa Taiyab, 2006. *Global Environmental Governance: A Reform Agenda*. p. 56.

22 Frank Biermann, 2012. “Greening the United Nations Charter: World politics in the Anthropocene.” *Environment*, p. 8.

23 Ulrich Beyerlin and Thilo Marauhn, 2011. “International Environmental Law.” *Devon* [p. 252].

24 UNCTAD's World Investment Report 2014. *Investing in the SDGs: An Action Plan*. United Nations Conference on Trade and Development, United Nations, New York and Geneva (2014). The report reveals global foreign direct investment (FDI) flows rose by 9 per cent in 2013 to \$1.45 trillion after a decline in 2012, with this growth expected to continue in the coming years. The FDI growth shows potential of international investment to help reach post-2015 development agenda.



up green economy investments as one of five potential options for strengthening investments in the sustainable development goals (SDGs), shown in Table 1, and achieving effective international environmental governance (the others being increasing absorptive capacity; establishing effective regulatory frameworks and standards; good governance, strengthening institutional arrangements, and implementing SDG impact assessment systems). A more recent High Level Dialogue on Public Support for Renewable Energy, hosted by the International Renewable Energy Agency (IRENA) in January 2014 in Abu Dhabi, concluded there is a “missing compelling narrative” for mobilizing private capital alongside public finance in the renewable energy sector, requiring an authoritative voice to articulate the existing business case to promote policy change, as well as boosting project and development investment.<sup>25</sup> At the UNEA meeting, this mobilization of private capital including capital markets was supported by developing countries as well as a number international financial institutions and banks. China stressed green economic growth and the pollution emission rules as its strategic choice for development, emphasizing investments in green practices and achievements, including through green crediting. Many developing countries emphasized unlocking private finance through committed green economic policies and a risk management framework for assessing and managing environmental and social risk in projects. However, participants also lamented the broken definition of corporate values that only consider short-term returns without appreciating sustainability. They called for solutions that emphasize working with governments to write bankable projects, low-risk policies and blended finance to overcome the savings-investment gap especially in health, transport and energy sectors which require high capital investment. These countries argued that this question requires further deliberation and analysis to create a common understanding, find global solutions and move toward green growth.

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25 See International Renewable Energy Agency (IRENA). *Renewable Energy and Jobs: Annual Review 2014* (2014).

26 UN Open Working Group on Sustainable Development Goals (OWG), “Working Document for 5-9 May Session of Open Working Group,” (2012) available at: <http://sustainabledevelopment.un.org>, accessed 07.19.14.

**Table 1. Overview of prospective SDG focus areas**

• Poverty eradication, building shared prosperity and promoting equality	• Means of implementation; global partnership for sustainable development
• Education and lifelong learning	• Sustainable cities and human settlements
• Sustainable agriculture, food security and nutrition	• Industrialization and promotion of equality among nations
• Health and population dynamics	• Sustainable consumption and production
• Energy	• Climate change
• Water and sanitation	• Ecosystems and biodiversity
• Gender equality and women's empowerment	• Economic growth, employment infrastructure
• Conservation and sustainable use of marine resources, oceans and seas	• Peaceful and inclusive societies, rule of law and capable institutions

Source: Based on UNCTAD (2014), Table IV.1. UN Open Working Group on Sustainable Development Goals, working document, 5-9 May 2014 session.

### ***B. Institutional Coordination***

At the UNEA summit, while a number of documents were introduced noting the progress in consolidation of UNEP headquarters functions in Nairobi, there was no substantive conclusion on how consolidation of functions strengthen UNEP and delegates resolved that it should be implemented “progressively in line with the decision of the Governing Council”.<sup>27</sup> Furthermore, some developed countries led by the United States and Switzerland argued that long-term cost implications of the consolidation, the definition of ‘headquarters functions’ and how the consolidation objective will improve efficiency needed broader analysis and justification.<sup>28</sup>

<sup>27</sup> See Report of the Executive Director, UNEP/EA.1/2/Add.5 on implementation of Governing Council Decision 27/2 on consolidation of headquarters functions. See UNEP/EA.1/INF/16 for supplemental information on the consolidation.

<sup>28</sup> Earth Negotiation Bulletin (ENB). *Report of the First Meeting of the Open-ended Committee of Permanent Representatives (OECP) to UNEP*. Available at: <www.iisd.ca> (last access 15 July 2014).

According to a recent analysis by the UN Joint Inspection Unit, “headquarters functions of UNEP” refers to the “support and backstop functions provided for regional and/or national activities undertaken by UNEP offices or officials in the field, as well as the governing body’s high-level ministerial oversight and synthesis of its decentralized capacities throughout the world for the smooth implementation of its decisions.”<sup>29</sup> In this regard, the consolidation might extend to the secretariats of MEAs participating in the work of UN country teams. Yet, intergovernmental processes determine the location of MEA secretariats and the organization cannot unilaterally relocate those staff members. Amendment to the GEF instrument was also introduced and supported by the United States to, *inter alia*: amend paragraph 2 of the instrument, inviting GEF to revise its focal area structure and strategy to address the chemicals and waste management; and permit GEF to serve as one of the financial mechanisms of the Minamata Convention.<sup>30</sup> UNEP also received UNDP’s support by joining the UNEP-led Partnership for Action for a Green Economy. Progress at the first UNEA meeting, in sum, has been modest. And yet, the reconstituted governing body of UNEP and Global Ministerial Environment Forum, with universal membership, reveals an organization that has finally come of age and self-confident about its legitimacy to drive a transformation of IEG, despite operational and functional challenges, making transformation to implementing agency status, like other UN agencies such as the UNDP, in the years to come more likely.

A second main reform issue regarding the institutional framework for sustainable development is the symbiotic relationship between international and national environmental law, as well as the strengthening of environmental rule of law to ensure just and sustainable development outcomes. In particular, the contribution of environmental law to sustainable development and a green economy including attainment of social equity, justice and sustainable governance was a strong theme at the first session of UNEA. To further the integration of UNEP’s work on environmental rule of law and lay a strong foundation for environmental democracy and sustainable governance, participants held interactive debates and dialogues on, *inter alia*: boosting environmental impact assessments, incorporating environmental rights in national constitutions, universalization of the rights of nature, balancing environmental concerns against property rights, dissemination of

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29 Tadanori Inomata and Jean Wesley Cazeau, 2008. *Post-Rio+20 Review of Environmental Governance within the United Nations System* [p. 44-45].

30 See UNEP/EA.1 L.4 on the amendment of the instrument for the establishment of the re-structured GEF.

information on environmental rights to build capacity of judicial officers to respond effectively to environmental related crimes, and the feasibility of establishing an international environmental court or expanding mandates of existing courts to deal with rising environmental related crime such as illegal wildlife trade, among others.<sup>31</sup>

### *C. Defining Sustainable Development Goals and Post-2015 Development Agenda*

A third major outcome of UNEA was the adoption of draft proceedings at its first universal session and reaffirmation of its commitment to full implementation of the Rio+20 outcome document and all the principles of the Rio Declaration on Environment and Development.<sup>32,33</sup> Delegates also agreed to, *inter alia*: accelerate and support efforts for the promotion of sustainable consumption and production patterns, including through sustainable lifestyles and resource efficiency; ensure full integration of the environmental dimension, especially throughout the sustainable development agenda; achieve an ambitious, universal, implementable and realizable post-2015 development agenda that fully integrates the economic, social and environmental dimensions of sustainable development in a coherent, holistic, comprehensive and balanced way; and take action to prevent, combat and eradicate the illegal trade in wildlife and wildlife products.<sup>34</sup> They also resolved to undertake urgent actions to address climate change to achieve sustainable development by working towards the adoption of an ambitious outcome in the form of a protocol, another legal instrument or an agreed outcome with legal force under the UNFCCC applicable to all parties in 2015, in accordance with the Durban Platform for Enhanced Action; ensure the full implementation of MEAs and other international and regional environmental commitments in an effective and coordinated manner while promoting synergies among them, acknowledging their positive contribution to sustainable development; reinforce efforts to halt biodiversity loss and combat desertification, drought and land degradation; and foster and encourage the development of genuine and durable partnerships to address

31 See UNEP/EA.1/L.2 and Add.1.

32 UNEA Ministerial Outcome Document of the First Session of the United Nations Environment Assembly (UNEA) of the United Nations Environment Programme (UNEP), 2014, available at <<http://www.unep.org/unea/docs/UNEA-1%20outcome%20document.pdf>>, Accessed October, 7, 2014.

33 See UNEP/EA.1/L.1 and Add.1-2 presented and adopted at the first session of UNEA. Delegates also adopted UNEP/EA.1/L.2 and Add.1.

34 Ibid [20-21].

environmental challenges faced by small island developing States.

In Nairobi, governments also resolved to, *inter alia*: strengthen the role of the UNEP in promoting air quality; enhance science-policy interface; improve knowledge on measures and techniques to reduce microplastics in the marine environment; finalize the report on the relationship between UNEP and MEAs and present it to the next Open-Ended Committee of Permanent Representatives (OECPR); provide and enhance support to developing countries on ecosystem-based adaptation; encourage countries to strengthen international dialogue, cooperation, technical assistance and capacity building in support of the implementation of Principle 10 of the Rio Declaration on Environment and Development<sup>35</sup>; different visions, approaches, models and tools to achieve environmental sustainability in the context of sustainable development and poverty eradication; coordination across the UN system in the field of the environment, including the Environment Management Group; illegal trade in wildlife; and chemicals and wastes. They acknowledged the historic importance of the first universal UNEA session and recognized “the fundamental role of the Environment Assembly [UNEA] in promoting the full integration and coherent implementation of the environmental dimension of sustainable development and its potential to identify opportunities and advance solutions for the global environmental agenda.”<sup>36</sup> Governments also reaffirmed their commitment to the full implementation of the Rio+20 outcome document, *The Future We Want*, including the implementation of the environmental pillar in the context of sustainable development, and paragraph 88, on strengthening and upgrading UNEP.

Unlike the Millennium Development Goals (MDGs), which were targeted at developing countries, the new Sustainable Development Goals will also cover industrialized countries and potentially define UN-agreed ‘development goals’ also for the North, a subject that the United States tried hard to prevent at the Rio+20, yet in vain. Briefing a high-level ministerial segment at the UNEA on the progress in the Open Working Group (OWG) negotiations, Co-Chair of the OWG on SDGs, Ambassador Macharia Kamau, explained the 17 draft SDGs and the unprecedented scale of the UN consultative process. Delegates urged UNEP to ensure full integration of sustainability across all the SDGs, stressing that the organization could offer practical tools for integrating sustainability across the social and econom-

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35 UNEA Ministerial Outcome Document, 2014. See also final resolution UNEP/EA.1/L.13.

36 Ibid [20].

ic SDGs. Furthermore, ministers of environment and heads of delegation also called on the UN Economic and Social Council (ECOSOC) and the UN General Assembly to “give appropriate consideration” to the outcome document “with a view to the balanced integration of the three dimensions of sustainable development in the work of the UN and its Member States”.<sup>37</sup> However, it remains to be seen if these bodies will take stock of environmental stakeholders’ views ahead of the second meeting of the High-level Political Forum on Sustainable Development and the final meeting of the OWG in New York, as the concrete topics covered by the UNEA outcome document such as illegal trade in wildlife and relationship between UNEP and MEAs—sensitive issues for both the North and South—were not conclusively addressed.

During UNEA’s Committee of the Whole, Kenya introduced a resolution on illegal trade in wildlife to mobilize political will, leadership and resources, in response to the Rio+20 Conference for a “firm and strengthened” action on this matter.<sup>38</sup> However, while noting UNEP’s engagement on the issue, the United States supported by Switzerland, Iran and China stressed that UNEP should work “within its mandate” to avoid duplication of efforts. Despite its high profile at the first session of UNEA, delegates seemed less convinced that UNEP is the right institution to address the matter noting that many member states have dedicated ministries of wildlife and tourism and the matter has already been taken up in a number of international fora. Furthermore, some delegates observed that to ensure sufficient mobilization and enforcement at the highest levels, the issue requires coordination by ministries of internal security or even the office of the president and not just ministries of environment, due to its close links to corruption networks, organized crime and insecurity.<sup>39</sup> Governments, therefore, called upon the UN General Assembly to consider the issue of illegal wildlife trade at its 69<sup>th</sup> session, and stressed the importance of addressing the issue in the context of the post-2015 development framework. It is therefore likely that the issue will feature again at the second UNEA session in May 2016.

A second important discussion agenda for both the North and South is the relationship between UNEP and MEAs, including strengthening the coordination role of UNEP across the UN System in the field of environment including

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<sup>37</sup> Ibid [21].

<sup>38</sup> See draft decision, UNEP/EA.1/CW/CRP.5.

<sup>39</sup> Earth Negotiation Bulletin (ENB). *Report of the First UN Environment Assembly of the United Nations Environment Programme*, 2014, available at <[www.iisd.ca](http://www.iisd.ca)>, accessed October 7, 2014.

the Environment Management Group (EMG). Coordination was identified in Agenda 21 as central issue of international environmental governance due to the increasing number of international legal agreements. This was reaffirmed at the Rio+20 summit, which established ‘a universal intergovernmental high level political forum, building on the strengths, experiences, resources and inclusive participation modalities of the Commission on Sustainable Development, and subsequently replacing the Commission,’<sup>40</sup> and reaffirmed in GC decision 27/5, calling for UNEP to coordinate system-wide strategies on the environment. At Rio+20, ECOSOC, a high-level political forum on sustainable development, was also mandated to provide leadership in sustainable development issues and enhance the three dimensions of sustainable development in a holistic manner through a “dynamic platform for regular dialogue, and stocktaking and agenda setting to advance sustainable development”.<sup>41</sup> However, in the final outcome document at the historic first UNEA session, evidence of a strengthened coordination role of UNEP, in sum, was negligible. Governments mostly resolved to identify possible measures to maximize the effectiveness and efficiency of the EMG and to submit a report with recommendations to the second session of UNEA. Delegates further resolved to submit a report to the second session of UNEA, with proposals developed in conjunction with the EMG describing the integration of the outcome of the post-2015 development agenda into the environmental work of the UN. While there was much discussion at the UNEA session on the relationship between UNEP and MEAs, work remained unfinished as the report on the issue to be presented to the OECPR for consideration, has not progressed beyond the information document.<sup>42</sup> In addition, although many delegates urged UNEP to avoid duplicating work, it seems the trend towards UNEP stepping up its work with MEAs is gaining momentum.

#### *D. Minding the Gaps in Science and Policy Interface*

The UNEA conference brought to light a prevailing disconnect between science and policy. Like the Rio+20 Conference that preceded it a couple of years ago, at which the scientific community invested substantial resources long before the conference started in publishing books, research

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40 According to *The Future We Want*, 2012, para. 83, ECOSOC shall be strengthened to foster a “key role in achieving a balanced integration of the three dimensions of sustainable development.”

41 Ibid [para. 85.k].

42 UNEP/EA.1/INF/8 draft decision on relationship between UNEP and MEAs.

papers, articles, as well as adopting *The State of the Planet Declaration*, the inaugural UNEA session was preceded by the release of numerous scientific publications. Addressing the closing plenary, UN Secretary-General Ban Ki-moon underscored this fact, noting UNEP's role in scientific research, governance and providing tools to help mainstream environment into policymaking processes. Delegates also underscored UNEP's flagship assessments, such as the Global Environmental Outlook, the Global Environment Monitoring System (GEMS)/Water Programme, which help to bridge the science-policy-practice gap.

Yet, this growing acceptance of the science-policy interface is rarely reflected in governmental discussions. Because of the proliferation of MEAs and fragmentation of IEG as well as lack of cooperation and coordination among international organizations of coordination, non-state actors in a state-centric system, and inefficient use of resources, some experts have argued the role of science in environmental governance is on the decline, while the rapid evolution of IEG has led the system to outgrow itself creating new institutional challenges.<sup>43</sup> At the nation-state level, environmental politics often follow disaster, for example in international marine environmental law that advances with a new treaty or regulatory policy after each major marine disaster such as oil leaks. From the perspective of many scientists, the impact of microplastics in the marine environment is now approaching a global disaster. Yet, adequate political responses are lacking. It would be simplistic to explain this lack of political action purely by inadequacies in defining and framing the problem. Still, the global awareness of related threats to human health and the environment and global cooperation needs to be improved. At the UNEA session, the United States, Australia, Chile, Switzerland and the EU supported proposal by Norway to strengthen cooperation under the Global Partnership on Marine Litter and to undertake a study to strengthen knowledge on measures and techniques to reduce micro-

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43 Adil Najam, Mihaela Papa, Nadaa Taiyab, 2006. *Global Environmental Governance: A Reform Agenda*. International Institute for Sustainable Development (IISD) [p. 14]. See generally: Maria Ivanova, 2005. *Can the Anchor Hold? Rethinking the United Nations Environment Programme for the 21st Century*. New Haven: Yale School of Forestry and Environmental Studies. Accessed at <<http://www.yale.edu/gegdialogue>> in July 2014; Norichika Kanie and Peter M. Haas (eds), *Emerging Forces in Environmental Governance* (Hong Kong: United Nations University Press, 2004); John Vogler, 'In Defense of International Environmental Cooperation', in John Barry and Robyn Eckersley (eds), *The State and the Global Ecological Crisis* (Cambridge, MA: MIT Press, 2005), pp. 229–55; and Knigge, M., Herweg, J. and Huberman, D., 2005. *Geographical Aspects of International Environmental Governance: Illustrating Decentralisation*. Berlin: Ecologic Institute for International and European Environmental Policy. Available at: <[http://www.ecologic.de/download/verschiedenes/2005/knigge\\_fragmentation.pdf](http://www.ecologic.de/download/verschiedenes/2005/knigge_fragmentation.pdf)> in July 2014.



plastics in the marine environment.<sup>44</sup> However, the United States proposed a broad framing of the issue as a marine debris problem to include marine plastics and microplastics. In the final outcome document, governments adopted resolution on marine plastic debris and microplastics stressing the importance of precautionary approach; recognizing the significant risks arising from inadequate management and disposal of plastic; and emphasizing the need for more knowledge and research on the source and fate of microplastics and their impact on biodiversity, marine ecosystems and human health. However, the business and industry expressed concern about singling out plastics over other forms of marine debris. Without better integration of these multiple challenges and actors, organizational rearrangement alone cannot resolve institutional problems. The overall integration of existing knowledge on the environmental security of the planet on a stable basis and with a high authority in the UN system is clearly missing.

Crucial processes in environmental action such as science-policy interface and strengthened stakeholder engagement are vital components of sustainable governance. The Committee of the Whole observed that UNEA should recognize gaps in knowledge on the state of the environment and UNEP should present a gap analysis report on environmental data as well as recommendations on policy instruments for a strengthened science-policy interface. Furthermore, delegates resolved that UNEP should provide expert input on the environment in relation to the SDGs; and work with other UN bodies, including UN Department of Economic and Social Affairs, in producing the global sustainable development report. In preparations for the UNEA summit, the first ever UNEP Open-ended Committee of Permanent Representatives was held in March 2014, at which UNEP presented ongoing scientific work as well as proposed actions to strengthen the science-policy interface.<sup>45</sup> In Rio+20, governments agreed that strengthening of UNEP implies adequate and increased financial resources to enhance science-policy-interface and UNEP's catalytic and coordination role, as well as enhancing stakeholder engagement. This was evident at the UNEA session with delegates deciding to promote a strong science-policy interface building on existing international instruments, assessments, panels and information networks, including the Global Environment Outlook (GEO), as one of the processes aimed at bringing together information and assessment to support

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44 See draft decision by Norway (UNEP/EA.1/L.1), on strengthening knowledge on measures and techniques to reduce microplastics in the marine environment.

45 UNEP/EA.1/3/Add.1. See also draft decisions on the state of the environment (UNEP/EA.1/4) and UNEP Live platform (UNEP/EA.1/4/Add.1).

informed decision-making. Other ongoing measures to improve information access debated at UNEA included operationalizing inclusive knowledge management through the UNEP Live.<sup>46</sup> For instance, Bolivia proposed a resolution on knowledge management tools for environmental sustainability and delegates invited the Executive Director to consider organizing a workshop on this issue at the second session of UNEA,<sup>47</sup> including consultation processes for the GEO and UNEP Live.

However, while universal membership—as embodied in the UNEA—formalizes the process and reflects the evolving and (re) constitution of institutional framework for international environmental governance including the integration of environmental concerns in non-environmental policy domains in the form of enhanced UNEP’s status, it is widely recognized that a higher status cannot be acquired solely through a name change. For this reason, governments should ensure UNEP emerges as a strong political and strategic vehicle for strengthening the environmental dimension of sustainable development. UNEA should also explore a strong leadership focus on scientific knowledge about the planetary boundaries by strengthening scientific analysis, cooperation, dialogue and practical solutions to address the emerging ‘second generation’ environmental challenges.

Overall, the ministerial outcome document of the first UNEA session is fairly modest, surely if compared to the expectation leading up to the historic summit, and indeed the two major Rio summits, especially on identifying and reducing gaps in the science-policy interface necessary to achieve sustainable development and poverty eradication. However, this sharp focus on the science-policy interface and national as well as regional level capacity building at the first session of UNEA, including critical environmental considerations not covered yet by system-wide environmental strategies, it seems represent a renewed practical focus on UNEP’s work at the nexus of science and policy.

#### 4. POLITICAL ECONOMY PERSPECTIVE

**L**emos and Agrawal argue that a more nuanced and persuasive account of the reconfiguration of institutional arrangements of environmental governance demands attention to organizational and discursive elements

<sup>46</sup> UNEP/EA.1/2/Add.4 and UNEP/EA.1/INF/23.

<sup>47</sup> See Bolivia’s resolution (UNEP/EA.1/CW/CRP.3) on different approaches, visions, models and tools for environmental sustainability. For more details, see also the final resolution, UNEP/EA.1/L.14.

of power and their interrelationship, as “the supposed new mechanisms of governance are little more than a natural evolution of traditional regime politics because outsiders and disempowered groups continue to have little opportunity to participate in contemporary efforts at governance despite the greater incorporation of civil society actors.”<sup>48</sup> Furthermore, the multiple actors comprising the system of environmental governance, and their actions need to be mutually reinforcing and better coordinated. As Newell notes, political economy of the dynamic relationship between states and markets, and the broader shifts in law, custom, and political interests in IEG has to be placed centrally to reflect on “the fact that global environmental governance cannot be understood separately from broader shifts in authority in global politics.”<sup>49</sup> Political economy is a valuable approach for analyzing and characterizing the interactions of markets and states in shaping environmental politics and policies at the nation-state and international scale. As a mode of inquiry, political economy critiques the dominant social and economic arrangements of modern life that have come to characterize the capitalist industrial society.<sup>50</sup> Because of changes in the global system and the fragmented institutional arrangements of environmental governance described previously, political economy has emerged as a viable approach to locate IEG within the major contours of governance designed to promote and sustain economic globalisation.<sup>51</sup>

From Stockholm to Rio and beyond, international environmental law has largely developed in a fragmented, piecemeal and sectoral manner through,<sup>52</sup> specific treaties targeting certain issues for the protection and preservation of the environment.<sup>53</sup> Because of this fragmentation, duplications and even contradictions in spending by different elements of the system is a key concern. It is therefore, not surprising that UNEP’s work in international environmental law followed a similar pattern of governance,

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48 Maria Carmen Lemos and Arun Agrawal, 2006. “Environmental Governance” *Annual Review of Environment and Resources*, p. 312. Also See generally Ford, L.H., 2003. “Challenging Global Environmental Governance: Social Movement Agency and Global Civil Society.” *Global Environmental Politics* 3(2): p. 120-134.

49 Peter Newell, 2008. *The Political Economy of Global Environmental Governance*, Review of International Studies [p. 513].

50 Richard B. Norgaard, 1994. *Development Betrayed: The End of Progress and a Coevolutionary Revisioning of the Future*, London and New York: Routledge. p.15-16.

51 Paterson, M., D. Humphreys and L. Pettiford, 2003. *Conceptualizing Global Environmental Governance: From Interstate Regimes to Counter-Hegemonic Struggles*, Global Environmental Governance for the 21st Century, edited by D. Humphreys, M. Paterson and L. Pettiford, special issue, pp. 5.

52 Fariborz Zelli, 2011. “The Fragmentation of the Global Climate Governance Architecture.” *Wiley Interdisciplinary Reviews: Climate Change*, 2(2): p. 255-270.

by starting with regional sectoral treaties and then graduating into global sectoral issues. Multilaterally, lack of policy integration between regimes is a concern of IEG that the new UNEA should eschew at all costs. In more critical terms, Newell argues that incoherence in policy objectives in international environmental law is evident in economic orthodoxies that are sacrosanct and protected from scrutiny, and the narrowing of the terms of the negotiations to “political solutions that can comfortably be accommodated within the business-as-usual model” of modern neoliberalism has only promoted marginalization and delegitimization of effective alternative forms of environmental governance.<sup>54</sup> This may be the true litmus test of how a strengthened and upgraded UNEP, especially through universalization of the membership of its governing body, responds coherently and effectively to international environmental governance since Rio+20.

### *A. Embedding UNEA Within Global Development Agenda*

**A**t Rio+20, governments bestowed a level of legitimacy upon UNEA far beyond UNEP’s governing council oversight functions with the authority to drive environmental reforms and address serious environmental challenges. For instance, many observers stress that UNEP (and UNEA) should actively engage in providing input to the post-2015 process, including formulation of SDGs. One option that had been promoted before the UNEA conference was elevating the Environment Management Group established in 2001 to coordinate UN programs, organs, specialized agencies, and the secretariats of Multilateral Environmental Agreements, to the same status as other bodies reporting to the UN system’s Chief Executives Board (CEB) for Coordination.<sup>55,56</sup> Other, more far reaching proposals, have recommend-

53 Ibid [p. 260]; Sebastian Oberthür<sup>1</sup> and Olav Schram Stokke, 2011. “Institutional Complexity and Interplay Management: Compatibility and Change in Global Governance” p. 5; Eero Palmujoki, 2006. *Liberal Norms and Global Environmental Governance*. Torino, Section Seven: Global Governance, a Critical Encounter, p. 12; R. Daniel Kelemen<sup>1</sup> and David Vogel, 2009. “Trading Places: The Role of the United States and the European Union in International Environmental Politics.” *Comparative Political Studies*. 43(4): 427-456. (2011): [p. 435]; Maria Ivanova, 2010. “UNEP in Global Environmental Governance: Design, Leadership, Location.” *Global Environmental Politics* [p. 43].

54 Peter Newell, 2008. *The Political Economy of Global Environmental Governance*, Review of International Studies, [p. 517].

55 United Nations Environment Management Group (EMG). Report of the Annual Meeting of the Environment Management Group. EMG/AM.07/11.

56 Maria Ivanova, 2009. *Global Environmental Governance in the 21<sup>st</sup> Century: Way Ahead Wide Open. Report from the Global Environmental Governance Forum: Reflecting on the Past, Moving into the Future*, held in Glion, Switzerland, June 28–July 2, 2009. Available at <<http://www.environmentalgovernance.org>>, accessed on July 13, 2014.

ed creating a new body to be named as ‘sustainable development council’ directly under the UN General Assembly, similar to the UN Human Rights Council, which was established as an independent body of the UN General Assembly.<sup>57</sup> We still lack, therefore, a clear articulation of the application of a coherent political economy approach to embed global environmental governance to SDGs, particularly global economic processes. Additionally, informal meetings of the first OECPR prior to the UNEA conference suggested UNEP should actively engage in providing input on targets and indicators for the post-2015 development agenda and the SDGs.<sup>58</sup> Yet, both the enhanced remit for UNEP and the post-2015 process are products of the Rio+20 outcome born alongside one another. Therefore, how the expanded UNEP interfaces with the post-2015 development agenda process and the OWG on SDGs could provide the first litmus test in practice on the effectiveness of UNEA in spearheading leadership on the environmental dimensions of sustainable development.

It should be noted, however, as Najam et al., surmise that as international environmental law evolves and matures, proliferation and fragmentation might begin to slow as “negotiation fatigue” sets in and member states become less interested in creating new MEAs.<sup>59</sup> Furthermore, investment in improving the management of MEAs and depoliticization of IEG could result in certain characteristics that are particularly important for advancing the post-2015 development agenda, such as scaling down the number of MEAs but enhancing their scientific profile, rationalizing knowledge cooperation within the IEG system, guaranteeing independence and authoritativeness of scientific assessments and research produced by various elements

57 Frank Biermann, 2012. “Greening the United Nations Charter: World politics in the Anthropocene.” *Environment* 54 (3) (2012): p. 6-17; For detailed evaluation on different proposals see Kanie N., Betsill, M.M., Zondervan R., Frank Biermann and Young, O.R. “A charter moment: Restructuring governance for sustainability.” *Public Administration and Development* 32, p. 292-304 (2012); High-level Panel on Global Sustainability. *Resilient People, Resilient Planet: A Future Worth Choosing* (2012). Available at <www.un.org/gsp>; State of the Planet Declaration. “Planet Under Pressure: New Knowledge Towards Solutions.” By the Co-chairs of the Planet under Pressure conference (London, 26- 29 March 2012) supported by the conference Scientific Organizing Committee, available at <www.planetunderpressure2012.net>, accessed 07.10.14; for an extensive overview of the options, see Bernstein S. with Brunnée J. “Consultants’ Report on Options for Broader Reform of the Institutional Framework for Sustainable Development (IFSD): Structural, Legal, and Financial Aspects.” (New York: UN Department of Economic and Social Affairs), available at: <http://www.unctd2012.org/index.php?page=view&ctype=400&nr=211&menu=45>, accessed July 20, 2014.

58 ENB, 2014. Report of the first meeting of the Open-ended Committee of Permanent Representatives (OECPR) to UNEP.

59 Adil Najam, Mihaela Papa, Nadaa Taiyab, 2006. *Global Environmental Governance: A Reform Agenda*. International Institute for Sustainable Development (IISD), p. 33.

of the IEG system, and more focus on integrating environment into national development agenda. Internationally, environmental law is increasingly reflecting an integrated approach by taking into account social and economic development goals.<sup>60</sup> It is also recognizing national disparities in relative development levels, while necessitating differentiated implementation schedules, financial resources, and technology transfers as ways to assist developing countries meet their international obligations. Furthermore, IEG has increased the role for non-state actors and epistemic communities providing intergovernmental forums for different pieces of the international environmental agenda, as well as recognizing the participation of private actors in promoting sustainable development, integrated economic growth, social development and environmental protection.<sup>61</sup> The result is the embedding of new and innovative concepts, principles, rules, ideas, and decision-making procedures in areas such as implementation, compliance, dispute avoidance, and dispute settlement. In this regard, international environmental law is enhancing environmental integration, development and economic process by providing effective legal and regulatory framework for implementing environmental treaties.

Strengthening UNEP (and UNEA) implies a need for additional resources and expanded stakeholder participation in environmental governance, as well as *inter alia*: increased sensitivity towards social and economic safeguards; sharpened communications and knowledge management strategies to enhance the science-policy interface; improved quality of monitoring and reporting; increased investment in new systems and partnerships; and enhanced results-based management. However, a political economy account requires a grounding of this new status to demonstrate effective flow of knowledge, leadership, mainstreaming, and coherence between environmental change and its governance, at national and international scale. Moreover, this enhanced remit has the promise of a broadening expertise, gaining support for implementation, and boosting legitimacy and ownership of programmes. According to *The Future We Want*,<sup>62</sup> governments established a high-level political forum to provide a “dynamic platform for regular dialogue, and stocktaking and agenda setting to advance sustainable development”, along with a number of related tasks. The World Bank and

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60 Michael Ewing-Chow and Darryl Soh, 2009. *Pain, Gain, or Shame: The Evolution of Environmental Law and the Role of Multinational Corporations*, 16 *Indiana Journal of Global Legal Studies*. p. 201-202.

61 Ulrich Beyerlin and Thilo Marauhn, 2011. “International Environmental Law.” *Devon*, p. 255.

62 *The Future We Want* [para. 85].

the World Trade Organization (WTO) as well as other multilateral financial and trade institutions were also invited to participate. However, no more concrete and specific reforms on high-level coordination could be agreed.

However, a core part of UNEP's institutional legitimacy depends on its success in enhancing consensus-based stakeholder engagement, perspectives, and participation on environmental governance. As proliferation of international environmental institutions within the UN system has advanced so has the mushrooming of non-UN international and regional institutions claiming sustainable development to be central to their overarching goals. UNEP has made substantial investments in improving participation of these major groups and stakeholders through expanded access-to-information policy, including the two-day 'global major groups and stakeholders forum' held prior to each meeting of the governing council, with the 15<sup>th</sup> forum held ahead of the first UNEA session. However, at the first OECPR held ahead of the UNEA session, when it came to considering the definition of stakeholder categories, the process for accrediting stakeholders, the roles of the UNEA and Committee of Permanent Representatives (CPR), consensus seemed elusive, partly due to the steep learning curve of the new UNEA rules and procedures. There is an important and conceptually significant correlation, therefore, between expanded access-to-information policy and enhanced role of stakeholders. For this reason procedural matters dominated the first UNEA session. For instance, in the Committee of the Whole meetings, perception that the UNEA's bureau had perhaps not fully set the rules of procedure was evident.

### *B. Wither Environmentalism? Current Debates on Sustainability Governance*

One major concern at the inaugural UNEA session was how to maintain UNEP's place as the environmental voice of the UN system. Observers expressed skepticism about UNEA's ability to influence the SDGs and post-2015 process, and some delegates saw this as a key litmus test for UNEP in the post-2015 negotiations in ensuring sustainability is fully integrated across all the SDGs. Despite awareness that UNEA should not be seen to be "stepping on the institutional toes" of other institutions, hopes of this integration ahead of the second meeting of the HLPF and the final meeting of the OWG in New York later in the year, may now rest instead on 'minilateralism,' that is, negotiations among a few interested institutions and groups with a particular view to the effectiveness of policymaking, such as those

created at the Rio+20. Nevertheless, many delegations in Nairobi viewed UNEP's successful organization of the first UNEA session as a vindication of the strength of the organization and its leadership in offering practical tools for integrating sustainability across the social and economic SDGs. UN Secretary-General Ban Ki-moon described UNEP as "better placed than ever" to provide the science, governance and tools to help mainstream environment into policymaking processes.<sup>63</sup> The sensitivities around the SDG discussions at the inaugural UNEA, where delegates were repeatedly reminded not to preempt the outcome of the post-2015 process, probably do not justify this enthusiasm.

In the current international system, however, political economy has deep aversion towards liberal institutional structures and arrangements of state and corporate power including global capitalist relations and economic globalization.<sup>64</sup> In this regard, a weakness of the political economy approach is its inability to identify the social causes of an environmental problem. It is this deficiency of the logic of the market that could give theoretical majority voting rights on a per capita basis to countries with higher populations such as China and India, in international negotiations at the expense of smaller countries. If UNEP's leadership on core themes such as ecosystem management, environmental governance, climate change, chemicals and waste, and resource efficiency is relatively well acknowledged, the institutional implications of a strengthened and upgraded UNEP are just beginning to sink in within the UN system. Furthermore, even though scientific inputs are highly regarded to UNEP (and UNEA's) institutional legitimacy and environmental governance, their significance, operationalization, and utility is determined by the decisions and actions of member states. Here is where a reformed UNEP (and indeed United Nations) should redefine itself by embracing weighted voting system<sup>65</sup> that grants voting rights to member states on account of the average of the population, contributions to the UN budget, and membership status.

Despite the well-showcased UNEP's institutional mandate and convening power, as demonstrated by the number of heads of MEAs and UN

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63 UNEP [p. 6].

64 Joseph M. Grieco, 1998. "Anarchy and the limits of cooperation: A realist critique of the newest liberal institutionalism." *International Organization* 42: 485–507. p. 501–502.

65 Joseph E. Schwartzberg, 2009. "Universal weighted regional representation as a basis for security council reform," presentation at the opening panel on *Reform of the Security Council* at the International Law Weekend Conference of the American Branch of the International Law Association, New York, 22 October, 2009. Available at: <[http://www.josephschwartzberg.org/Regional\\_Representation.pdf](http://www.josephschwartzberg.org/Regional_Representation.pdf)>, accessed on October 10, 2014.



specialized agencies who attended the first UNEA conference, observers contend that the answer to effective sustainability governance does not lie with the UN system, “even if reformed, but in stronger reliance on bottom-up approaches driven by the private sector and civil society, including through nongovernmental agreements, transnational movements, and non-binding multisectoral partnerships”.<sup>66</sup> Arguing for such an approach should not amount to an endorsement of, explicit or implicit, exaggerated form of “pluralistic and post-ideological conception of the world,” or form of environmental politics.<sup>67</sup> In addition, at the UNEA session some delegates argued that the principal problem with fragmentation of IEG lies with the dominant modern economic trajectories and social institutional arrangements, and suggested the new SDGs should be well-balanced in terms of the environmental, economic and social goals. Cognizant of the dominate global economic system among other considerations, at the Rio+20, governments decided that the negotiated SDGs should be “action-oriented, concise and easy to communicate, limited in number, aspirational, global in nature and universally applicable to all countries while taking into account different national realities, capacities and levels of development and respecting national policies and priorities.”<sup>68</sup> However, with UNEA unable to adopt a decision especially on the stakeholder policy and related rules of procedure, more engagement and debate in this area is needed during the intersessional period to get this process back on track.

### C. Looking to Post-2015 Development World Under UNEA

Finally, the question arises whether UNEA is “fit for purpose” as the UN General Assembly’s subsidiary organ charged with safeguarding global sustainability governance and dealing “with new and emerging pressures” in the wake of the universalization of the membership of UNEP’s governing body, as called for in paragraph 88 of *The Future We Want*. Some observers have argued that UNEA should seize the moment and send a strong message to the General Assembly on UNEP’s role in the post-2015 development agenda.<sup>69</sup> The UNEA ministerial outcome document reaffirmed government’s commitment to full implementation of the Rio+20 outcome

66 Frank Biermann, 2012. *Greening the United Nations Charter: World politics in the Anthropocene*. Environment, p.6.

67 Rosaleen Duffy, 2005. “The Politics of Global Environmental Governance: The Powers and Limitations of Transfrontier Conservation Areas in Central Americas”, *Review of International Studies*, 31, p. 309.

68 *The Future We Want* [para. 246].

document, and all the principles of the Rio Declaration on Environment and Development.

Yet, the question remains whether strengthening of UNEP should also entail organizational reconfiguration under UNEO or World Environment Organization to improve system-wide coherence and coordination deficit in the global governance architecture that has resulted in considerable fragmentation, substantial costs and suboptimal policy outcomes. Related to the three issues is the need for restructuring of EMG to enhance coherence and system-wide coordination needs of different agencies and secretariats of MEAs. Still, others question whether such restructuring should include additional financial resources, consolidation of UNEP headquarters functions in Nairobi, putting GEF directly under UNEP, strengthening of human resources through transparent hiring processes, higher levels of accountability and performance review, improvement in access and participation procedures, review of all the rules of procedures for decision making, agenda structuring, expanded role of UNEP secretariat to oversee science-policy interface under the Office of the Chief Scientist including quality of project proposals for the Environment Fund, or heightened mechanisms for verification and compliance of environmental regimes. As pointed out in the UN Joint Inspection Unit report in 2008 and reaffirmed again in the 2014 report, “the current framework of international environmental governance is weakened by institutional fragmentation and specialization and the lack of a holistic approach to environmental issues and sustainable development” stemming from a “blurred distinction in [the UN system organizations’] work programmes between environmental protection and sustainable development and the absence of a single strategic planning framework”<sup>70</sup>... [for] developing “common approaches to identify regional strategies aimed at strengthening sustainable development and participating in the process towards post-2015 MDGs.”<sup>71</sup>

However, since 2013, intensive groundwork for formalizing the post-2015 development agenda began with the UN General Assembly’s Special Event held in September 2013 to, *inter alia*: approve a road map for the intergovernmental process; establish the HLPF; launch the Open Working

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69 UNEP [45].

70 See Tadanori Inomata, 2008. *Management Review of Environmental Governance within the United Nations System* (prepared by Tadanori Inomata). JIU/REP/2008/3, UN Joint Inspection Unit report (2008): pp. iii; and Tadanori Inomata and Jean Wesley Cazeau, 2008. UN Joint Inspection Unit. *Post-Rio+20 Review of Environmental Governance within the United Nations System*, p. 8.

71 *The Future We Want*, 2012 [operative para. 185].

Group on Sustainable Development Goals; and launch the Intergovernmental Committee of Experts on Sustainable Development Financing (ICESDF).<sup>72</sup> All the four tracks are at different stages of consensus building and negotiations, are expected to be complete by 2015. Throughout the post-2015 development agenda debates, UNEP has actively worked to enhance coherence and complementarities between environmental and environment-related institutional arrangements. Further, it has increasingly rearticulated its role by collaborating and identifying synergies among the conventions, utilizing the capabilities of the entire programme to contribute to the objectives agreed under the various action plans, and global and regional conventions. Subsequently, UNEP has undertaken a series of initiatives to develop coherent interlinkages among the conventions and MEAs, and despite its narrow ‘normative and catalytic’ mandate, promoted their effective implementation.<sup>73</sup> Furthermore, it has consistently presented a panoply of reports to enhance complementarities between international instruments related to environment and sustainable development, specifically through the green economy initiative, climate change, chemicals and waste, resource efficiency, ecosystems management and environmental governance. It remains to be seen, however, how it reconstitutes its normative and catalytic role in international environmental governance under a strengthened UNEA in the post-2015 development world.

## 5. CONCLUSION

At the UNEA conference, world’s governments adopted decisions to strengthen UNEP’s role in promoting air quality. They also resolved to enhance mainstreaming of chemicals and waste management in national development plans, implement Principle 10 of the *Rio Declaration on Environment and Development*, as well as enhance science-policy interface. Yet more remains to be done. As noted in the 2014 *Pathways to Deep Decarbonization*, “economic, social, and environmental risks of unabated climate change are immense...and threaten to roll back the fruits of decades of growth and development, undermine prosperity, and jeopardize

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72 United Nations General Assembly (UNGA) Special Event on the MDGs was called for by the UN Conference on Sustainable Development (UNCSD, or Rio+20) and held in New York on 25 September 2013. See <<http://www.un.org/millenniumgoals/pdf/Outcome%20documentMDG.pdf>>).

73 Maria Ivanova, 2010. “UNEP in Global Environmental Governance: Design, Leadership, Location.” *Global Environmental Politics*, p. 33.

countries' ability to achieve even the most basic socio-economic development goals in the future."<sup>74</sup>

The current science-policy interface is a major leadership experiment in environmental governance. As with enhancing institutional arrangements of global environmental governance, inspiring and strengthening a knowledge-based and a knowledge-producing IEG system at all scales, as resolved at the UNEA meeting, is imperative to sustainable development in a post-2015 development world. Such a system should seek to deepen institutionalized framework in IEG where sound scientific knowledge informs environmental policy in a meaningful way. It should also provide for inclusion of legitimate environmental interests of key stakeholders and relevant non-state actors. Internationally, a strengthened UNEP (and UNEA) is synonymous with effective environmental governance and system-wide scientific and knowledge coherence. UNEA therefore must emulate independent, authoritative, and cutting-edge policy objective that other multilateral and international organizations such as the World Bank, UNDP, World Health Organization and World Trade Organization, have become known for. In light of the foregoing, there is need to further strengthen UNEA to serve as 'the authoritative advocate for the global environment' not just 'within the United Nations system' but globally, as part of a new IEG structure, intended to position environment within sustainable development space alongside peace and security, global health, trade and sustainable economic growth. It is also vital that UNEA should be given a chance to co-evolve to keep up with environmental challenges as they themselves change and to distinguish itself by eschewing broad statements on multitude of issues. For this to be realized, UNEP (and UNEA) should have secure, stable and adequate financial resources, as called for in paragraph 88 of *The Future We Want*, not just from "the regular budget of the UN and voluntary contributions to fulfill its mandate," but from all major financing sources targeting environmental issues in order to fulfill its objectives under the enhanced mandate.

In short, it is time to act. A serious mismatch persists between IEG and coordination of secretariats of the MEAs, and it is vital for UNEA to develop structures to effectively support the link between sustainable development

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74 *Pathways to Deep Decarbonization* report (emphasis added). Published by the Sustainable Development Solutions Network (SDSN) and the Institute for Sustainable Development and International Relations (IDDRI), New York (2014): xi. The *Deep Decarbonization Pathways Project* (DDPP) is a collaborative initiative co-founded by the Sustainable Development Solutions Network (SDSN) and the Institute for Sustainable Development and International Relations (IDDRI) to understand and show steps needed by individual countries to transition to a low-carbon economy.

and sustainability governance. This support should be backed up by collective action on additional financial resources and concrete proposals emanating from the strengthened UNEA in order to inspire effective science-policy assessment and knowledge-producing IEG. For this reason, governments must take additional action to improve coherent policy decision-making and norm-setting to improve international environmental governance in the post-2015 era. Neither the existing disharmony in environmental policies and management systems in leadership and system-wide coherence nor the considerable fragmentation and suboptimal policy outcomes are tenable in enhancing intergovernmental processes for the post-2015 era. Strengthening leadership and management capacity in IEG and enhancing innovative financing mechanisms under UNEA, as well as improving collaboration and networking amongst various stakeholders is needed to achieve the global development goals. This calls for further reforms and strengthening of UNEA as well as improving international cooperation in environmental governance, especially institutions, rules and arrangements in order to achieve and sustain development gains in 2015.