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FS II 00-401

Institutional Reform
of International Environmental Policy:
Advancing the Debate
on a World Environment Organization

by

*Frank Biermann and Udo E. Simonis**

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Summary

With the onset of the new millennium, the longstanding need for reform of the United Nations system has gained new momentum. Efficiency gains and better coordination are desirable, though not sufficient to bring about improvement in international relations. It could therefore make sense to look for institutional innovations that would upgrade the pressing tasks of environmental and development policy in the eyes of national governments, international organizations, and nongovernmental organizations, improve the institutional setting for the negotiation and implementation of new agreements and action programs, and strengthen the action capacity of the developing countries on these matters.

The present paper points to and elaborates the need for a »World Environment and Development Organization« within the United Nations system, and outlines the shape it might be given. The intention here is to carry the debate, which has made considerable headway, into the science of politics and development. How will the expert community in the field of foreign relations and development cooperation, based on their theories and empirical knowledge, respond to the proposal?

1. BACKGROUND

Probably no one would award international environmental policy a *summa cum laude*. Natural scientists tend more to paint a bleak picture boding little good for the future. Climatologists, for instance, expect average global temperature to increase by 2°C (medium IPCC scenario) and sea levels to rise on average by up to one meter in the coming century; biologists estimate that between three and 130 plant and animal species die out day for day; water experts anticipate rapidly increasing water stress and water scarcity, etc. (cf. Brown et al. 2000, Gleick 1993, Heywood/Watson 1995, IPCC 1996, Lyke/Fletcher 1992, Meyers 1993, UNEP 1999). In view of this creeping global ecological crisis international environmental regimes have become one of the preferred fields on which the disciplines of international relations and development cooperation have focused their attention, not least with an eye to policy advice and consulting.ⁱ

For some time now claims have been heard in science and politics that real progress can be made here only through a more or less fundamental reform of the system of international institutions, in particular by creating a new UN specialized agency concerned in essence (though not necessarily exclusively) with environmental problems. In 1998, in a policy paper the Bonn-based Development and Peace Foundation spoke out in favor of a new UN organization of this sort (Biermann/Simonis 1998). The intent of the present contribution is to more precisely ground a respective proposal before the forum of political science and development cooperation - and invite its members to join us in debating it.

A biographical report on the issue of a global environment organization would go beyond the space available to us here; we can cite only a few key data as a means of illustrating the debate and the broad political effects it has unfolded. One of the best-known initiatives in the Anglo-Saxon literature is that advanced by Daniel C. Esty, a specialist in international law, who in 1994, in *Greening the GATT*, proposed a global environment organization, envisioned in the overall context of his book as a counterpole to the World Trade Organization (WTO) (Esty 1994a, b, 1996; see also Runge et al. 1994). Esty's organization would be concerned above all with global environmental goods like the oceans and the

atmosphere, and he seems intent on endowing this agency with far-reaching competences. The North-South compromise reached at the 1992 Rio de Janeiro conference - i.e. that environment and development are inseparable - would, for Esty, in fact tend more to decouple "environment" from "development." On Esty's initiative, a "Global Environmental Governance Dialogue" of experts came together in 1999 and extended to the public an "Invitation to Dialogue" (1999).

Meanwhile many politicians and governments also see a new body as a potential solution. In 1999 Renato Ruggiero, the Executive Director of the World Trade Organization (WTO), caused a stir by calling for a World Environment Organization as a counterbalance to the WTO (Ruggiero 1999) - an unlikely initiative coming from a top-level bureaucrat in view of the usual inclination of bureaucracies to widen their own competences when in doubt. No doubt the debate on the need to integrate environmental standards into the WTO regime (Helm 1996, Biermann 1999) played a role here. But as early as in 1998 the French President Jacques Chirac joined the proponents of a world environment agency,ⁱⁱ and the speculation now is that this might become one of the goals proposed by US vice-president Al Gore in the current presidential election campaign with an eye to showing environmental leadership.

Still, it is Germany that has been seen as the main international proponent of a new UN specialized agency since Chancellor Kohl, in the mid-1990s, spoke out quite unexpectedly in favor of an "Environmental Security Council," a proposal that was followed in 1997 by the call for a "global umbrella organization for environmental issues, with the United Nations Environment Programme as its major pillar"ⁱⁱⁱ, and is now set to be further pursued by Germany's new Red-Green government.^{iv} And so a statement made on January 25, 1999, by the environmental-policy spokeswoman of the SPD Bundestag faction included the following words:

We need [...] to focus the tangled and disjointed international organizations and programs. UNEP [UN Environment Programme], CSD [Commission on Sustainable Development], and UNDP [UN Development Programme] should be merged to form an organization for sustainable development. Close links to the World Bank, the International Monetary Fund, the World Trade Organization, and UNCTAD [UN Conference on Trade and Development] should be aimed for as a means of preventing environmental dumping and achieving an environmentally sound, sustainable development in line with AGENDA 21.

(Quoted after: *epd-Entwicklungspolitik* 5/99)

This political development indicates that it is entirely conceivable that the near future will experience the launch of negotiations or at least exploratory talks on the establishment of a world environment organization.^v The past decades and years, which have seen the establishment of the UN Industrial Development Organization (UNIDO), the World Intellectual Property Organization (WIPO), the World Trade Organization (WTO), and the International Criminal Court (ICC), have demonstrated that the international system is, despite its anarchic elements, capable of achieving noteworthy progress in the task of further institutionalization (for a comprehensive evaluation cf. Brandt-Report 1980, Damrosch 1987, Douglas 1987, Joint Inspection Unit 1995, Nyerere Report 1991, Palme Report 1989, Reisman 1993, Rosenau 1992, South Centre 1996, Tinbergen 1976, Touval 1994, and WCED 1987). The establishment of yet another UN specialized agency in charge of integrating existing programs and organizations is, even though it may seem unnecessary to some observers, a prospect by no means unrealistic. But would an organization of this type be desirable? Should political scientists call out to the government; "Stop!" or "Go on!?" If it were the latter, the question is: Where, exactly, are we destined for? What shape is the new organization to take on?

This question is interesting not only in practical but also in theoretical terms, in that it picks up on some significant problems with which the disciplines of international relations and development cooperation have been concerned with for decades (cf. CDP 1989, Hardin 1968, Kaul et al. 1999, Miller 1990, Rosenau/Czempiel 1992, Streeten 1989, Streeten et al. 1992). What is at issue are basic questions of international institutionalization that are exemplified in the dispute over the need for a global environmental organization - and the shape it ought to be given. In essence, what we find here are three different, opposed positions that we will discuss in what follows:

Hierarchization of international environmental policy (government). This maximalist position would state that we need a hierarchical organization of environmental policy, which might be achieved through a sovereignty-impairing world environment organization or an "environmental security council" (*Section 2*).

Horizontal institutionalization (governance) with or without the establishment of a world environment organization as a new element. What these two positions have in common is that they reject, or regard as unrealistic, any

hierarchization of the international institutional structure in the sphere of environmental policy, though they are at odds on whether or not the process of horizontal institutionalization (governance) could and should be fostered by establishing a non-sovereignty-impairing UN specialized organization. The present article supports the latter position (see *Section 3*).

In *Section 4* we will outline the final shape that might be given to such a non-sovereignty-impairing UN specialized organization, which, because of the development-related component we envisage for it, we would wish to call the "*World Environment and Development Organization (WEDO)*."

2. REORGANIZATION OF INTERNATIONAL ENVIRONMENTAL POLICY THROUGH HIERARCHIZATION: A WORLD ENVIRONMENT ORGANIZATION OR ENVIRONMENTAL SECURITY COUNCIL (GOVERNMENT)?

Many representatives of nongovernmental environment organizations (NGOs) have been complaining for years that international environmental policy lacks clout. The main world-environmental problem is, they go on, the lacking or faulty implementation of environmental standards set out in international treaties and conference documents. In essence this is a correct statement. But often the right evidence is adduced to draw the wrong conclusions, and calls are made for unrealistic surges of institutionalization, say, a "World Environment Organization" with a hierarchical organizational pattern and the power to impose sanctions on individual states, thus curtailing (to a certain degree) the sovereignty of all states. Such proposals give preference to the aspect of global government over horizontal, nonhierarchical organizational patterns (governance).

In the theoretical debate this has often been termed undesirable - both by adherents of *neorealism*, who regard any and every form of institutionalization as unrealistic and unlikely (e.g. Waltz 1959, 1979), and by proponents of *neoliberal institutionalism*, who point to the possibility of governing in the international system on the basis of networked problem-specific regimes and not through sovereignty-impairing organizations (e.g. Haas et al. 1993, Victor et al. 1998, Young 1997). In essence the call for a hierarchical organization of

international environmental policy refers back to earlier idealistic notions that centered on the chances and conditions of "world federalism" (e.g.....).

In the meantime, however, the experiences made with international environmental policy indicate that, at least in this field, any sovereignty-impairing hierarchization would run up against strong resistance, in North and South alike. True, some ten years ago, as the climate debate was getting underway, some 24 countries spoke out in favor of a new authority for the protection of the atmosphere that would "involve such decision-making procedures as may be effective even if, on occasion, unanimous agreement has not been achieved." (The Hague Declaration 1989) Such an authority was to have the power to impose sanctions against individual states or a minority of states (cf. Sands 1989). Even though some larger countries were involved - including Brazil, Canada, Germany, India, and Japan - of the permanent members of the UN Security Council only France was willing to sign the Hague Declaration. Today it appears unlikely that developing countries like China or industrialized countries like the US would be prepared to acquiesce in any impairment of their sovereignty in matters of environmental protection.

We must regard as similarly unrealistic proposals on an "Environmental Security Council" (cf. Palmer 1992),^{vi} which the German chancellor Kohl once mentioned, though without permitting it to develop into an official position, or the proposal to establish an "International Environmental Court" with binding jurisdiction (Fues 1997, Zaelke/Cameron 1990). The former proposal would require at least an amendment of the UN Charter, which in turn would require ratification by two thirds of UN members as well as by the permanent members of the UN Security Council. It seems to us that any extensive restrictions of national sovereignty are out of the question in view of the need for a quorum of this sort.

There are also calls to strengthen the sanctioning options of existing international institutions, precisely with an eye to a world environment organization. Some see the WTO as a model, since under its rules individual countries can accuse other countries of violating the GATT (or other trade agreements) and force them to appear before a dispute-settlement panel of independent trade experts, which de facto takes binding decisions (cf. Bhaskar/Glyn 1995, Brenton 1994, Hoffman 1989, and Kenen 1994). But a

procedure of this kind would be more than difficult to transfer to a world environment organization.

In the first place, there are technical reasons for not doing so. The parties to the WTO are in general parties to the same trade agreements, which would not necessarily be the case with membership in a world environment organization. True, it would be possible to make membership in a world environment organization conditional on ratification of a catalogue of given international environmental agreements. But we doubt that any such organization would provide incentive enough to ratify an environmental treaty that a country would otherwise not have ratified. To this extent an inseparable linkage between membership in a world environment organization and ratification of a given *aquis communautaire* would entail the opposite consequences.

In the second place, effective dispute settlement in trade law resists comparison with the case of environmental law. Trade conflicts concern concrete, transparent, and universally measurable legal acts of a government - be it the level of tariffs, import and export regulations, or technical standards for domestic manufacturing facilities. The GATT/WTO dispute-settlement panels are designed to prevent one country from creatively shaping its trade regulations with an eye to deriving unwarranted benefits at the expense of other countries. Even though environment-related conflicts over the appropriateness of legal acts may occur, the problem posed by the global ecological crisis is in fact far more complex in terms of its causes and consequences. Many international environmental agreements entail no transparent, concrete obligations on states that could be as easily quantified as an export tariff. And even where there are measurable indicators, the subordinate priority given to the environment on the domestic policy agenda of most countries casts doubts on their willingness to implement decisions of dispute-settlement panels.

Equipping a future world environment organization with powerful enforcement mechanisms would prove practicable only vis-à-vis those countries that even today see themselves faced with the threat of "eco-imperialism": the developing countries (see Agarwal/Narain 1991, Miller 1995, Sachs 1993). It is precisely with regard to developing countries that a world environment organization with "sharp teeth" could prove counterproductive. In order to dodge the ecological enforcement pressure of industrialized countries, developing countries would either refrain from joining or fight to water down given environmental standards

and refuse to accept any more stringent standards. This of course would be no great service to the environment.

3. HORIZONTAL INSTITUTIONALIZATION (GOVERNANCE) WITH OR WITHOUT A NEW WORLD ORGANIZATION AS AN ADDITIONAL ELEMENT

As indicated, the maximalist solution of a hierarchization of international environmental policy in the form of a sovereignty-impairing world environment organization seems unrealistic. Effective international environmental policy seems possible only via horizontal institutionalization. Still, the question is whether the existing governance structures of environmental policy should remain the way they are or whether there is need to widen them to include a new *non-sovereignty-impairing world environment organization* - perhaps along the lines of the World Health Organization (WHO).

In what follows we will discuss this issue with reference to three essential functions of international environmental policy, which, in our view, are not adequately performed by the existing governance structures: (a) coordination of the increasingly fragmented international institutional system, (b) the system's capacity-building and financial functions, in particular as regards North-South cooperation, and (c) implementation and further development of international environmental law (concern-building, improving the contractual environment).^{vii}

(a) *Better coordination of the international institutional system by integrating certain of its functions into a new organization*

The international institutional system displays, first and foremost, shortcomings in coordination that lead to substantial (albeit as yet not fully quantified) costs and suboptimal policy results (cf. Brown et al. 2000, Brown-Weiss 1989, Commission on Global Governance 1995, IPCC 1996, Jänicke et al. 1996, Keohane/Levy 1996, and Ostrom 1991). UNEP, founded in 1972, was for a time a comparatively autonomous actor with a clearly defined set of functions. The proliferation of international environmental agreements, however, led to an extensive fragmentation of the system, particularly in that newly created

convention secretariats have, in part for political reasons, not been integrated into UNEP. This set the stage for an unfolding of strong particularist interests, a development which has not proven especially conducive to a coordinated approach to international environmental policy. For instance, there is very little coordination between climate policy, biodiversity policy, and desertification policy (WBGU 1996). Independent secretariats and advisory boards have been set up for each of these policy fields, which has led to de facto specialized agencies, each with an agenda of its own. The practice, provided for in the Kyoto Protocol to the Framework Convention on Climate Change, of crediting greenhouse-gas sinks could, for example, create incentives in forest policy that run counter to the goals of international biodiversity policy in that this protocol rewards as a pro-climate measure the clearance of (species-rich) primary forests and a subsequent reforestation with (nondiverse but fast-growing) plantations (WCMC 1994).

The funding of the new environmental conventions with North-South relevance has in part been integrated into the World Bank in the form of the *Global Environment Facility* (GEF), in part transferred to independent sectoral funds (Biermann 1998, Biermann/Simonis 1999). In addition, various UN specialized agencies (like WHO and FAO) have become active in the field of environmental protection, while UNEP, a relatively small organization, has been unable to develop a really effective standard-setting and program-building force of its own.

This problem has long been recognized. Attempts have been made to network individual organizations, programs, and offices since 1972, when a first coordination board was set up within the United Nations.^{viii} This board and its successors, however, failed to overcome the particularist interests of individual departments, programs, and convention secretariats, and the result has been a fragmentation of the international institutional system that has rendered it comparatively ineffective and inefficient. The ongoing debate since the 1992 Rio conference on institutional reform led to one more subcommission of the UN Economic and Social Council, the *Commission on Sustainable Development* (CSD). Beside UNEP, the convention secretariats, and the relevant UN specialized agencies, the CSD has developed into a forum for discourse, but not one in which decisions are taken. It has proven not to be adequate to the cross-sectoral functions that many had foreseen for it. Its representatives

include ministers responsible for development and the environment, but not their colleagues with the portfolios for financial, economic, and foreign affairs.

In short, in the field of environmental policy the international institutional system has, since 1972, been marked by a high level of organizational fragmentation. This system lacks a focal point of the kind defined by, say, the World Health Organization (WHO) or the World Trade Organization (WTO). There are overlaps in the functions and duties of nearly all of these institutions. Coordination - if there is any at all - is an ad hoc affair, with individual signatory conferences meeting with UN organizations or among themselves to hammer out arrangements on coordination and cooperation.

For this reason there appears to be an urgent need for an institutional center in charge of an international sustainability strategy. Just as, in the 1970s and 1980s, autonomous environment ministries were established at the national level with an eye to strengthening the policy field of environmental protection, the goal now should be to further institutionalize the field of international environmental policy by setting up an independent specialized organization with a view to minimizing the particularist interests of individual programs and offices and limiting double work, overlaps, and inconsistencies. It would appear both practicable and simple in organizational terms to set up an independent UN specialized organization with a legal personality, a budget, and funding sources of its own, a development which would have to be accompanied by (1) the dissolution and transfer of UNEP, CSD, and GEF, (2) an integration of the larger convention secretariats, and (3) a redefinition of the functions of the remaining environmental and developmental organizations, programs, and offices.

(b) Capacity-building in the South and financial and technology transfers

Several years ago the term capacity-building became a new catchword of development cooperation (AGENDA 21 1992, Jänicke et al. 1996). Seen in empirical terms, the building of capacity, particularly in developing countries, is apt to be one of the essential functions of environmental regimes as well (cf. Friedheim 1999, Keohane 1984, Keohane et al. 1993, Korton 1990, Krasner 1983, and Wagner 1997). Financial and technical cooperation on environmental problems nevertheless differs from traditional development cooperation: in

particular the transfers effected by the *Multilateral Ozone Fund* or the *Global Environment Facility* (GEF) serve not only to build environmental capacities in the South, they also provide compensation for the full 'agreed' incremental costs incurred by developing countries in connection with global environmental policy - in accordance with the principle of the 1992 Rio conference on "common but differentiated responsibilities and capabilities" of the parties (see Biermann/Simonis 1999, Sand 1994, WBGU 1999,). In this context, Hans Peter Schipulle, division head of the German Ministry for Economic Cooperation and Development, noted:

Unlike classical development aid [...], these transfers, effected by environmental conventions, are obligations that are binding under international law [...]. If these obligations are not met by the industrialized countries, the developing countries can advance this as grounds for not meeting their own obligations, which in turn would harm the interests of the international community, i.e. including the industrialized countries. [These stipulations] become national law when the Convention is ratified and thus constitutes a new legal frame of reference for the cooperation with developing countries." (Schipulle 1997: 236f.; our translation).

This new frame of reference is mirrored in the parity-based North-South decision-making procedure of the GEF and the Ozone Fund as well as in the fact that the otherwise customary donor-recipient terminology has given way to the notion of "partnership."

However, even here the international institutional system suffers from an ad hoc approach that fails to live up to the standards of transparency, effectiveness, and participation of those affected - and the need for financial and technology transfers from North to South in connection with international environmental policy will continue to grow: This is why the industrialized countries have agreed to refund developing countries for their incremental costs not only in ozone policy but presumably also in climate policy, if the latter commit themselves to quantitative emission-reduction targets for greenhouse gases in the coming decades. There is a similar arrangement in the making for the future costs of biodiversity policy in the South (Biermann 1998: Chapters 5-7), and also for the transfers aimed at combating desertification as well as the anticipated transfer obligations aimed at limiting releases of persistent organic pollutants (POPs). Moreover, the future international trade in emission certificates in connection with climate protection (Simonis 1996b) - perhaps initially in the form of the "clean development mechanism" decided on in Kyoto in 1997 - will require solid institutional underpinning.

These new and extended functional requirements of the international institutional system can, in our opinion, not be met by the present institutional setting.

- One conceivable approach would be the proliferation of further special funds like the Multilateral Ozone Fund, which was set up in 1990 specifically for this one environmental problem (cf. Benedick 1998). But any such further fragmentation of the institutional system would appear counterproductive and should therefore be avoided (cf. Sand 1994).
- A second approach would be to transfer all these tasks of global environmental protection to the World Bank. This the developing countries would, in all likelihood, resist, since they regard the World Bank, with its contribution-dependent decision-making procedure, as heavily dominated by the North.
- A third approach would be to transfer the task of improving the capacity-building, funding, and compensation functions of the international institutional system through an independent organization that pays more attention to the special needs of international environmental policy than does the World Bank and is at the same time capable of overcoming the system's fragmentation. Such a new organization would be able to coordinate different funding mechanisms and to administer the resources of the sectoral funds on a trust basis, which would also mean integrating the GEF into it (and thus disbanding it). This proposal might well find the acceptance of the industrialized countries if the new organization were provided with a decision-making procedure that is in fact equivalent to that of the GEF (an issue which we will look at in more detail further below).

As far as funding is concerned, a new world organization would also offer the possibility to fundamentally revamp the international system, viz. to introduce "quasi-automatic funding mechanisms." Nearly all funding mechanisms that have been used to date suffer from the voluntary nature of contributions, and even in cases in which there are contractually fixed membership contributions, we find again and again that payments are politically instrumentalized or made conditional on the given economic situation. As the theory of collective goods indicates, the funding of community tasks is systematically undercut by free riders, and in consequence at the national level community tasks are not funded

on a voluntary basis but financed through taxes.^{ix} This is the point of departure of the ongoing debate on quasi-automatic funding mechanisms in international environmental policy.

The financial needs of environmental policy are obviously substantial. The secretariat of the 1992 UN Conference on Environment and Development estimated that, taken together, the conference's action program "AGENDA 21" - which was worked out by mutual consent of the parties to the conference - would require a total annual volume of 125 billion US\$ in financial aid to the developing countries, a volume in dimensions higher than the current two-billion budget of the GEF, through which the industrialized countries transfer their support for climate, biodiversity, and marine-protection policies in the South.

Since early on in the debate, international taxes on environmentally harmful activities have been discussed as regards ozone policy (CFC tax) and climate policy (carbon tax). At present the debate revolves around the *Tobin tax* on foreign-exchange transactions, which found the support of former French president Mitterrand (at the Copenhagen World Social Summit), as well as an international charge on air traffic. The latter possibility had been addressed by former UN Secretary-General Boutros-Ghali in the *Agenda for Peace* as a means of funding peacekeeping activities (UNSG 1992). Since collecting an international charge on air traffic would not entail undue verification costs (it could, for instance, be collected together with the customary airport tax), it would appear practicable. A comparatively low tax rate may ensure that it would not result in any major distortions of competition and rerouting or relocation of air traffic. An additional source of funding might be sought in a rededication of debt instruments from developing countries for use by the new organization (a global *debt-for-nature swap*, as it were) as well as a dedicated use of the revenues from the (planned) trade in emission certificates provided for in the Kyoto Protocol.

Of course such quasi-automatic funding mechanisms could also be introduced without any global environment organization, just as it would be possible to establish a global organization without endowing it with automatic funding mechanisms. Still, the one is inseparably linked to the other: quasi-automatic funding mechanisms require an appropriate institutional structure, and it is precisely in the case of environment-related taxes that a UN organization would be an actor particularly well suited to the task of a fair collection and

administration of the funds. By the same token, quasi-automatic funding mechanisms would provide the new organization with the means it needs to discharge its tasks, in particular capacity-building in developing countries (for more on this see below).

(c) Implementation and further development of international environmental law

As discussed above, it would be a mistake to think in terms of equipping a world environment organization with strong enforcement mechanisms, or for that matter even to call for them publicly. Any such institutional reform would backfire, resulting in a setback for international environmental policy. Instead of "sharp teeth" the organization should have "softer" enforcement mechanisms, which research in political science has shown to be appropriate and auspicious. The organization should, for instance, have the right to collect, evaluate, and publish in a suitable form information on the state of the environment and on the state of environmental policy in the UN member states, especially with regard to the international commitments assumed by individual states. As Marc A. Levy (1993) showed with reference to the European clean-air regime, clear comparative information on individual countries (the "leaders") can give rise to important political initiatives in less ecology-minded countries (the "laggards").

Like most other specialized agencies of the United Nations, a world environment organization should therefore foster problem consciousness and seek to improve the state of the world's knowledge, including information on the earth system and existing environmental and development problems as well as information on the state of implementation of international and national policy with a view to controlling global change (see Schellnhuber/Wenzel 1998). Of course it is unnecessary to reinvent the wheel: all recent environmental conventions have obliged the parties to report regularly on their policy-related activities. Specialized organizations like the World Meteorological Organization (WMO), the International Maritime Organization (IMO), or the World Health Organization (WHO) collect and disseminate valuable information and promote further research; the CSD provides important contributions in designing indicators of sustainable development. And UNEP, not least, is active in many of these areas.

Yet what we still lack is a comprehensive coordination, focusing, and decision-oriented processing of this knowledge. The data and programs currently elaborated by various international actors is in need of a fixed point in the institutional system. In theory UNEP could be this fixed point, but the present resources and competences of this program, which operates under the UN General Assembly, are not adequate. This would be more a task for a world environment organization endowed with sufficient funds and independent in institutional terms.

Such an organization would also have more possibilities to support regime-building processes ("improving the contractual environment"; see Keohane et al. 1993), particularly by initiating and preparing international treaties. The International Labour Organization (ILO) might serve as a model here. Using a predefined procedure, it has worked out a body of "ILO conventions" which constitute a kind of global labor code. Compared with the ILO, however, environmental policy is, in terms of regime formation, far more disparate and marked by competence-related disputes between various UN specialized agencies in which UNEP has been unable to hold its own.

4. OUTLINE OF A "WORLD ENVIRONMENT AND DEVELOPMENT ORGANIZATION"

In conclusion, establishing a non-sovereignty-impairing world environment organization as an added element of a horizontally organized governance structure in environmental policy would thus appear to be a promising endeavour. An organization of this sort could be set up - independently of UN quorums - at a diplomatic conference and come into force for its members only. In legal terms it could even become active without China (as the WTO did) or without the United States (which has pulled out of several specialized UN organizations, and must in any case be seen as rather aloof from the United Nations).

In essence, the new organization should fulfill the three above-named functions, i.e. it should: (1) integrate and better coordinate international environmental policy, (2) build and finance capacities in the developing countries, and (3) contribute to a better implementation and further development of international

environmental law. But what concrete shape could, should be given to such an organization? We wish to throw some light on three problems in this second step of our line of argument: (a) the demarcation of "environment" and "development", (b) the decision-making procedure, and (c) the integration of private actors.

(a) *Demarcation of "environment" and "development"*

The main reason why a new UN specialized organization appears to be needed is the dysfunctional fragmentation of the international institutional system in the field of environmental policy. This is where the focal point of its functions should lie. But internationally it is nonetheless important not to view environmental protection in isolation. Political agreements and programs, for instance on regulating the consumption of fossil fuels (the *Climate Convention*) or protecting tropical forests (the *Biodiversity Convention*), inevitably affect core economic and development-related issues. A world environment organization must take this into account. It need not foster development as such, as is attempted by the UN Development Programme (UNDP), but it must not run counter to development, either. Its policy should ensure that poverty alleviation and economic development in the South are not jeopardized and that international environmental policy is or gets in line with the criterion of a globally equitable burden-sharing. This is why it is essential that this - as in the case of the 1992 Rio Declaration on Environment and Development - should be fully reflected in the organization's name: "*World Environment and Development Organization (WEDO)*".

Some might ask for a higher level of integration here: the amalgamation of UNEP and UNDP - which, in view of UNDP's budget, would amount to a mammoth union in the family of international institutions. Industrialized countries have long been opposed to any international organization for development issues, so that any upgrading of UNDP and UNEP, while advocated by the South, is apt to encounter rejection on the part of most industrialized countries. On the other hand, many industrialized countries might come to like a UNDP-UNEP synthesis, if this proved to be a way to cut the UN's overall development-related budget expenditures, i.e. if amalgamation means savings. The former UNDP administrator, James Gustave Speth, called in principle for a world environment organization, though he spoke out against any amalgamation with

his own organization (Speth 1996, 1998)^x. Similar resistance must be anticipated from his successor, and should, in view of the weight carried by UNDP, not be underrated. One main problem is the project character of UNDP's work which is different from UNEP's structure. Another factor is the substantial size difference between UNEP and UNDP. Both aspects might well hobble the policy-stimulating and cooperation-fostering effects of a new organization against the background of UNDP's development-related project work.

To this extent it could, at present, be more wise to refrain from amalgamating UNEP and UNDP to form a new organization, with UNDP continuing its work. But it would all the same be necessary to add the term development to the title of the new organization. The double, integrative term "environment and development" picks up on the 1992 Rio conference and the Rio Declaration, illustrating that environmental policy implies no structural restraints on the economic development of the South.

This in turn would imply inclusion of a number of principles of international environmental policy, such as the "common but differentiated responsibilities and capabilities" of the parties, the principle of obligations differentiated between North and South, and the principle of compensation for the South's incremental environmental costs. A pure "World Environment Organization" would at present certainly be rejected by most of the developing countries - though the proposal for a "*World Environment and Development Organization*" might, hopefully, open the door to a compromise between North and South.^{xi}

(b) *Decision-making procedure*

Institutions lower the transaction costs of the international system by providing proven and reliable decision-making procedures (Keohane 1984). A World Environment and Development Organization could thus contribute to coming to terms with the power configurations specific to environmental policy by establishing a unique decision-making process which would, independently of individual regimes, initiate, coordinate, and accompany an international sustainability strategy of North and South. Even though consensus is gaining ground in day-to-day UN affairs, the actual structure of voting rights in committees and commissions is still essential. In many international organizations special tasks and problems have led to very specific decision-

making procedures. Various elements of these different procedures could uniquely be combined for a World Environment and Development Organization in order to ensure its overall effectiveness and acceptance.

Decision-making procedures would certainly be appropriate that provide North and South with equal rights. This could prove to be a means of ensuring that the decisions taken by the new world organization on its strategy and program were compatible with the interests of both the developing countries and the industrialized countries. Decision-making procedures based on North-South parity are, in essence, a "third way" between the South-oriented decision-making procedure of the UN General Assembly (*one country, one vote*) and the North-oriented procedure of the Bretton Woods institutions (*one dollar, one vote*).

As early as 1990 it was stipulated for the ozone regime (and the *Multilateral Ozone Fund*) that every decision taken should require a two-thirds vote of the parties, including a simple majority of the developing countries and a simple majority of the industrialized countries (Benedick 1998). The procedure adopted for the reformed *Global Environment Facility* (GEF) in 1994 is in effect similar.^{xii}

One problematical aspect of strictly parity-based procedures, however, is the definition of group association. Singapore, for instance, has a higher per capita income than many industrialized countries, though it - as a member of the Group of 77 - continues to be regarded as a developing country. The ozone regime is marked by a problem-specific graduation procedure: If a developing country consumes more than 300 grams of CFCs per capita and annum, it is classified as an industrialized country. It is then required to meet the North's stricter reduction criteria and is included in the group of the industrialized countries in parity-based votes (Biermann 1998: Chapter 5). A case-specific graduation of this kind would, however, not seem to be appropriate for a World Environment and Development Organization which is to be responsible for a whole complex of environmental problems. A second-best option would be the self-definition of the parties, as in the case of UNCTAD or the UN General Assembly; developing countries that join the OECD (as Mexico and South-Korea did years ago) for instance are expected to comply with the environmental obligations of the industrialized countries.

In addition it would be worth considering to what extent a parity-based North-South procedure could be broken down into a multiple-parity procedure. If, for instance, four groups - "Western industrialized countries" (with a temporary subgroup of "countries in transition to market economy"), "newly industrial countries" (NICs), "developing countries," and "least developed countries" (LLDCs) were formed, it would be practicable to base decisions of the World Environment and Development Organization on consent of the majority of the members of these four groups. A further subdivision into groups with and without a veto could, on the other hand, impair the effectiveness of the decision-making process.

(c) *Integration of private actors*

The ongoing discussion, both public and in the social sciences, has focused on the new role of nongovernmental actors, on civil society and, in our context, on transnational environmental and business organizations (e.g. Anheier/Salamon 1998, Union of International Associations 1999, Wapner 1997, Werksman 1996). These NGOs not only exert considerable pressure on politics, they also offer, in a world of growing complexity, a number of "services" in the international system: they may supply favorably priced research and policy advice by qualified and (privately funded) staff members, monitor the mutual obligations of countries in a way that would be impossible for government agencies due to the ban on intervention under international law, and they do inform governments and the public on international negotiations, both on the activities of "one's own" diplomats and on those of the other negotiating parties. In addition, transnational environmental and business organizations can constitute effective feedback mechanisms between government representatives at diplomatic conferences and the situation at home (Raustiala 1997). For these reasons it is widely accepted that NGOs should be granted a greater say in international negotiations and policy formulation.

However, we find two troublesome areas that encumber the international community of private actors. On the one hand, the private environment groups active at UN conferences and signatory conferences are dominated by organizations of the North, from which they obtain their funding and, for the most part, their personnel (for a critical view, see South Centre 1996: 212ff.). This may influence the agendas of these groups, even though in practice

attempts are often made to maintain modes of North-South parity in the internal coordination between transnational environmental and developmental organizations. When the hearing rights of such organizations at diplomatic conferences are at issue, it is mostly the governments of the developing countries that prevent any further-reaching rights for private actors (in part due to internal democracy deficits). A second problem is that the financial power of the business organizations may decisively dilute genuine environmental interests.

One possible solution to these problems would be to institutionalize the collaboration of private actors in such a way as to ensure that the votes of North and South and business and environmental interests are balanced. A precedent here is the decision-making procedure of the International Labour Organization (ILO) which accords four votes to every member state, two to the government and one each to the employer organizations and the labor unions. The environmental and developmental organizations from the South would accordingly have a voting majority in the new organization (keyed to the size of the population they represent), and the interests of industry and ecology would be equally represented.

Certain problems could emerge in transferring this procedure to the new organization, however. In environmental and developmental affairs there are few organizations that fully represent their overall national clientele. But effective coalitions (like, for instance, the German *Forum Umwelt und Entwicklung*) could very well emerge in the near future - indeed, this could be promoted by anchoring a representation of voting NGOs from both camps in the statute of the World Environment and Development Organization.

5. CONCLUSIONS

If we are to achieve an international environmental and developmental policy capable of ensuring sustainability in and for the 21st century, it will be necessary to widen the family of UN specialized organizations and to include a new member responsible for the policy field of sustainable development. Disparate, poorly coordinated units in the existing international institutional

system could in this way be fused and on the whole invigorated. In our opinion the UN Environment Programme, the UN Commission for Sustainable Development, the Global Environment Facility, the secretariats of the major environmental conventions (such as climate, biodiversity, desertification convention and the law of the seas) and – probably – the UN Development Programme should be amalgamated in a new organization, the *World Environment and Development Organization*. Such an organization could lend the urgent tasks of environmental and developmental policy more weight among national governments, international organizations, and private actors alike. In addition, this would make it possible to strengthen the action capacity of the developing countries through enlarged financial and technical support. And furthermore, this would enable the international community to improve the institutional setting for negotiating new agreements and action programs and for implementing existing ones.

A *World Environment and Development Organization* could on the one hand be funded through contributions from the industrialized countries, and the savings effected by integrating existing programs and convention secretariats into it. A second approach to funding would be to rededicate debt instruments of the developing countries for the purposes of the new organization (enlarged *debt-for sustainable development swaps*). A third and major approach would be to introduce quasi-automatic funding mechanisms, above all a Tobin tax on cross-border financial transactions and an international air-traffic charge, and to harness (parts of) the revenues stemming from the planned trade in emission certificates in international climate policy.

As regards decision-making, the *World Environment and Development Organization* could gain the largest possible acceptance by introducing a parity-based North-South decision-making procedure conceived along the lines of the ozone regime (Multilateral Ozone Fund) and the reformed Global Environment Facility (GEF). This would mean that both a majority of the developing countries and a majority of the industrialized countries would have a group veto on decisions. The growing influence of private actors in global governance should be institutionalized in the organization, in this way improving equal opportunity. We would therefore propose voting rights for representatives of environment and business organizations on the model of the ILO. In this way every country

would have four votes: two for the government, one for environmental and developmental organizations, and one for business associations.

No doubt an organization of this sort will seem unrealistic or untimely to many people. But the establishment of an International Criminal Court (ICC) also appeared unrealistic just ten years ago. In the present essay we have sought to justify the need for a *World Environment and Development Organization*. At least France, Germany, and Japan now appear to embrace a positive attitude toward a new UN specialized organization. Thus far the developing countries tend to be either silent or more or less skeptical. But we think the organization outlined here could soon prove acceptable for a larger group of countries. Representatives of the South may ask whether a *World Environment and Development Organization* should be preferred or whether a global environment organization of Daniel Esty's type would turn out to be more suitable. We, of course, are inclined to believe that the proposal advanced here has the best chance to be implemented.

NOTES

- i It will not be possible to provide a comprehensive overview of the literature here; see the literature reports in Elliot (1998), Werksman (1996), Young (1997), and, to single out a few for the German-speaking world, Biermann (1998), Gehring (1994), Rittberger (1993), and Simonis (1996a).
- ii On November 3, 1998, President Chirac, at a congress of the World Conservation Union, spoke of the need for a "world authority" as an "impartial and indisputable global center for the evaluation of our environment" (Chirac 1998).
- iii Chancellor Kohl's statement before the 1997 special session of the UN General Assembly - the "Rio-plus-five Summit" - included the following words: "[...] global environmental protection and sustainable development need a clearly audible voice at the United Nations. Therefore, in the short term, I think it is important that cooperation among the various environment organizations be significantly improved. In the medium term this should lead to the creation of a global umbrella organization for environmental issues, with the United Nations Environment Programme as a major pillar" (*Deutschland* 1997). This was in effect in line with the Joint Declaration of Brazil, Germany, Singapore, and South Africa of June 23, 1997, at the same session of the UN General Assembly.
- iv The German Advisory Council on Global Change likewise recommended an "organization for sustainable development," but without, at this juncture, spelling out any specifics (WBGU 1996).
- v On the state of the internal UN reform debate, see UNSG (1998). The UN Task Force on Environment and Human Settlements recommended setting up an "Environmental Management Group" under the direction of UNEP as a means of better coordinating the work of secretariats, departments, and agencies.
- vi Toward the end of the 1980s New Zealand proposed the establishment of an "Environmental Protection Council" that was likewise to be empowered to take binding decisions (General Debate Statement at the 44th Session of the United Nations General Assembly, 2nd October 1989; Statement of the Honourable Geoffrey Palmer, Prime Minister of New Zealand).
- vii See Haas/Keohane/Levy (1993) on the three 'c's of successful environmental regimes. A fourth 'c' to this model may be added: *compliance management*. This last function would, however, continue to be the task of the individual environmental institutions even after

the establishment of a world environment organization, since a centralized compliance management appears unrealistic in view of the great number of regimes with different parties; its policy results would doubtless also be of poorer quality.

- viii Following the 1972 Stockholm Conference on the Human Environment, an independent office, the "Environment Coordination Board", was created; it was disbanded in 1977. Since then the UN's environmental policy has been coordinated by the general Administrative Committee on Co-ordination (ACC) and in part by UNEP. Klaus Töpfer, UNEP's current executive director, now seems to intend to set up an "Environmental Management Group" under the direction of UNEP with an eye to being better able to coordinate the work of the secretariats, departments, and agencies.
- ix See also the report of "The Independent Working Group on the Future of the United Nations," headed by former Pakistani prime minister Moeen Qureshi and former German president Richard von Weizsäcker (1995).
- x "I think it is very timely to be thinking about how to strengthen the UN in both environment and development, and linking the two. Major institutional innovations are needed in the environmental area, but perhaps the most important is to dramatically strengthen the UN Environment Programme. My own view is that UNEP should evolve into a world environment organization. I think a new name might be useful, because it would symbolize the fact that something new had come into being. The organization which I think is needed is one that would deal with information, analysis, monitoring trends in environment, early warning, framing agreements and building consensus for action. So we need a World Organization for Environment that is as strong and as effective as the World Trade Organization, where the trade ministers work together internationally, or as the World Health Organization, where the health ministers work together. We need an organization that brings all the environmental ministers of the world together for concerted action. I hope that UNEP can evolve into a world environment institution of the type that I described." (Speth 1998)
- xi This judgment is based, among other things, on several expert seminars at the School of International Studies, Jawaharlal Nehru University, New Delhi, in January and February 1999.
- xii Since 1994 decisions of the GEF Administrative Council have required a two-thirds majority that must be made up of 60 percent of the countries participating in the facility and 60 percent of the financial contributions to the facility. This is in effect a procedure based on North-South parity, one that accords an effective veto to developing countries and industrialized countries alike.