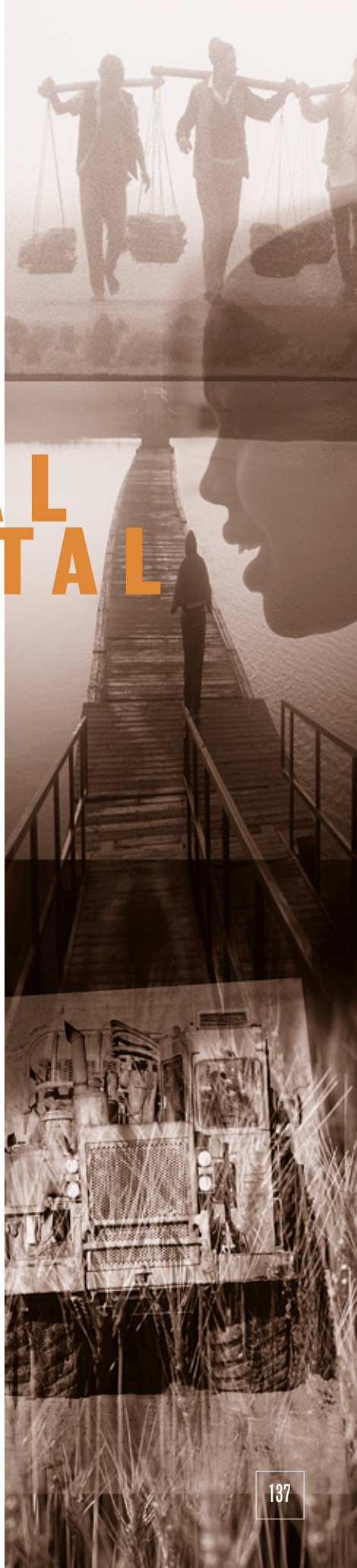
CHAPTER 7

INTERNATIONAL ENVIRONMENTAL GOVERNANCE



The interconnectedness of the global environment is beyond dispute. Few would disagree that coordinated international action is essential to protecting Earth's climate, preserving its biodiversity, and managing its marine and other common resources. In short, the need for a coherent system of international environmental governance is clear. But constructing such a system, and maintaining its effectiveness in the face of the many competing interests of nations, has proven exceedingly difficult.

Governing at the Global Scale

It is not enough to confine our environmental governance to the local or national level only. The global biosphere behaves as a single system, where the environmental impacts of each nation ultimately affect the whole. That makes a coordinated response from the community of nations a necessity for reversing today's global environmental decline. But the challenges of international governance are substantial. Finding consensus among nations about what sustainable development means, how to finance it, and what international laws and institutions are required to facilitate it is an urgent, but unfinished task.

The difficulty of pursuing environmental governance at the global scale is made greater by the obvious fact that there is no global government–no central institution with authority sufficient to craft strong environmental protections at the international level and to insist on compliance. In its absence, a looser system of global environmental governance has emerged. The current system reflects the strengths and dysfunctions of global politics, and shows the difficulty of inspiring effective cooperation among the fractious community of nations–even on environmental matters that all agree require common action.

The current system of international environmental governance consists of three basic elements. One component is a collection of intergovernmental organizations, such as the United Nations Environment Programme (UNEP), the United Nations Development Programme (UNDP), and other specialized UN agencies and commissions that are responsible for coordinating policy on the environment at the international level. These organizations, controlled by UN member nations, are charged with formulating an international agenda that will protect the environment and promote sustainable development. A variety of other international organizations, such as the World Bank and the World Trade Organization (WTO), also play important roles in global environmental decision-making.

A second element of the international environmental governance system is the framework of international environmental law that has evolved over the last century or so. This takes the form of a web of environmental treaties, such as the Framework Convention on Climate Change or the recently negotiated Stockholm Convention on Persistent Organic Pollutants. These are legally binding agreements among countries to take joint action on different environmental problems, with each nation responsible for action within its own territory.

A third element is financing mechanisms–to build capacity to carry out treaty commitments, to supplement national efforts toward sustainable development in poorer countries, and to support the UN agencies and treaty secretariats that coordinate and carry out environmental efforts. Some of these mechanisms are more general, such as the system of dues and voluntary contributions that funds UN agencies, or the financing that the World Bank and other multilateral development banks provide for development activities with environmental components. Other financing mechanisms, such as the Global Environment Facility, are more specifically targeted to environmental activities.

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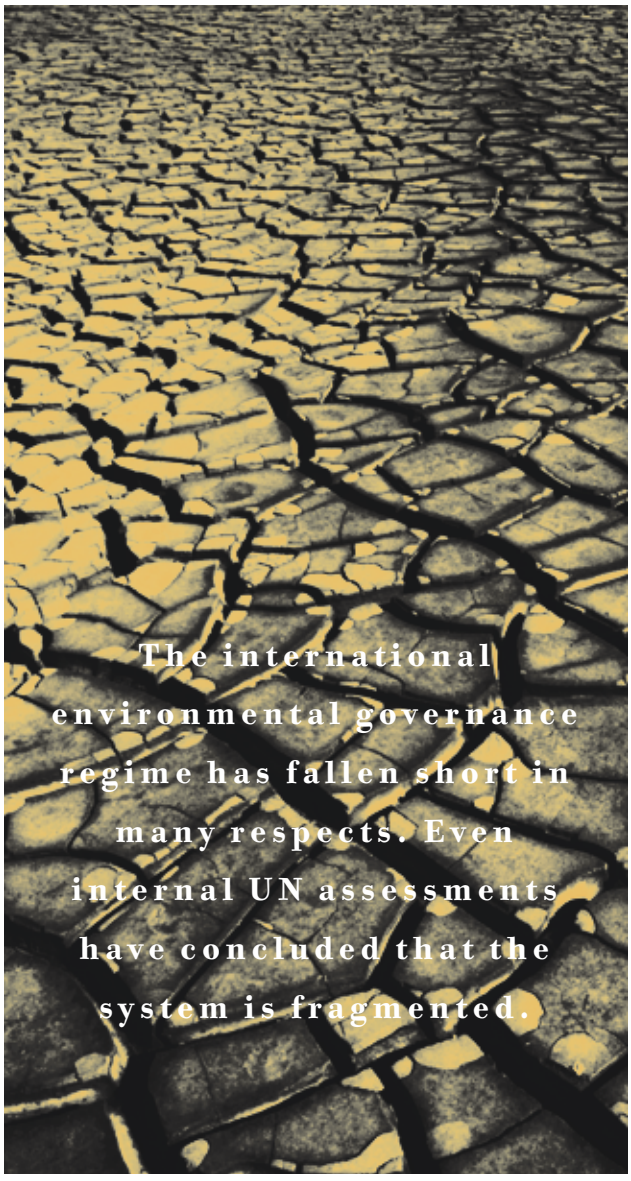
Together, the three components of international environmental governance are supposed to set priorities and facilitate steps to protect the environment and further sustainable development. Most of these steps must be implemented by individual nations themselves. From legislation to regulation to enforcement, it is the actions taken by nations at the domestic level that ultimately count most for success at the global level. But international organizations like UNDP, UNEP, and the World Bank also play major roles in implementation. Bilateral aid agencies and civil society groups also participate in important ways, as does the private sector.

Supplementing these elements is a continuing series of international environmental "summits," such as the 2002 World Summit on Sustainable Development in Johannesburg and the Earth Summit in Rio de Janeiro in 1992. These large gatherings are intended to provide highly visible forums that advance global resolve on the environment (see Box 7.1).

The record of governance this loose global regime has compiled is decidedly mixed. On the positive side, the international community has clearly accepted the environment as a key topic in global affairs, crafting hundreds of environmental agreements that promise cooperation on topics as specific as protecting certain species of sea turtles and as broad as preventing harm to the global climate. Supporting this growing will toward sustainability has been a gradual expansion of the capacity to assess global environmental threats through monitoring and analysis that the international community accepts as scientifically valid, and therefore a neutral basis for understanding and negotiation. Although far from perfect, this analysis has begun to bring the principle of access to environmental information to life at the international level–an essential enabling condition for action.

However, the international environmental governance regime has fallen short in many respects. Even internal UN assessments have concluded that the system is fragmented, with a host of policy-making organizations, treaties, financing mechanisms, and implementation projects whose efforts are often poorly coordinated and sometimes overlapping. There is a strong sense that "current approaches to global environmental management and sustainability are…ineffective" (UNEP 2001a:19). In many instances, international negotiations produce agreements with ambitious goals, but without realistic means of implementing or financing them. At a more fundamental level, international governance institutions are weakened by divisions among countries and regions, often manifesting themselves as North-South divides in terms of environmental priorities and perceived responsibilities. These weaknesses and divisions limit the capacity of the international community to respond to even the most pressing environmental problems–and may be an important reason why the combined efforts of dozens of organizations, hundreds of treaties, thousands of international meetings, and billions of dollars have failed, in most instances, to reduce environmental decline.



The relative ineffectiveness of international environmental governance is most apparent when compared to the evolving system for international governance of trade and investment. Not only does the World Trade Organization wield more concentrated authority over trade than any single environmental organization, but international trade agreements have strong enforcement and dispute resolution mechanisms. Moreover, international trade and finance policies have significant impact on the environment and real potential to trump international environmental policies when they come into conflict.

To be fair, the international environmental governance system is still a work in progress. Nearly all of it has come into being in the three decades since the environment began to be a common concern, and it continues to evolve, with new efforts to strengthen key elements agreed to at the Johannesburg summit. Civil society and the private sector have taken more active roles as the growth of "multi-stakeholder processes" has created a political space for the input of environmental, human rights, scientific, business, and other organizations in international decision-making processes. New partnerships that link civil society groups, businesses, and governments have also begun to make their influence felt at the international level, shifting some of the burden of implementing global solutions to groups that can tackle issues quickly and with special focus. These new coalitions have become a more dynamic force as the formal machinery of statecraft has shown its limitations.

Setting Environmental Policy: A Symphony of Organizations

The formal system of international environmental governance starts with the United Nations. The UN family of organizations includes the UN Environment Programme (UNEP), which has been given the principal environmental mandate but comparatively modest resources. It also includes the Commission on Sustainable Development (CSD), set up to monitor progress on Agenda 21–the blueprint for sustainable development adopted at the Rio Earth Summit. The United Nations Development Programme (UNDP) plays a major role in sustainable development and in implementing the Millennium Development Goals, one of which focuses on reducing environmental degradation. The formal system also includes a host of specialized agencies. Among others, it includes the World Meteorological Organization (WMO), which deals with atmosphere and climate; the Food and Agriculture Organization of the United Nations (FAO), whose purview includes agriculture, forests, and fisheries; the United Nations Educational, Scientific, and Cultural Organization (UNESCO), which has responsibilities in science and environmental education; and the International Atomic Energy Agency (IAEA), which monitors nuclear safety and radioactive wastes. (See Table 7.1.)

It is not just UN agencies that play roles in environmental policy-making at the international level. The World Bank has significant impact, both indirectly through the implications of its development activities for the environment and directly through its own environmental strategy. The Global Environment Facility (GEF), with its own governing council, sets priorities and processes for funding many environmental projects. In addition, a number of other intergovernmental and nongovernmental organizations (NGOs) routinely influence conservation and sustainable development policy. An important example is the World Conservation Union (IUCN), an international network of NGOs and governments that operates in 140 countries and has a mandate to help nations conserve nature and use it sustainably.

Regional organizations such as the European Union (EU) or the Organization of American States (OAS) contribute to international governance both through their own programs

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Box 7.1 The World Summit on Sustainable Development: Pursuing a Global Agenda

Ten years after the Rio Earth Summit, the World Summit on Sustainable Development (WSSD) convened in Johannesburg, South Africa, in August 2002, with 191 countries in attendance. The Summit was designed to review progress in implementing the ambitious goals that emerged from the Rio Summit. Beyond heads of state and government ministers, a multitude of observers from civil society groups, academia, the scientific community, local communities, and the private sector also made their way to Johannesburg (IISD 2002). Many of them had taken part in the extensive local, national, and international preparatory meetings that were held to identify and build consensus on key issues in the year leading up to the Summit.

Both the cost and the scale of the Summit were unprecedented, with more than 20,000 participants registered (La Viña et al. 2003:54). Its role expanded beyond the traditional bounds of an environmental conference to address three interlinked agendas (Speth 2003:28)

- *Environment*, including social justice, ecological equity, and the limited scope and effectiveness of environmental treaties;
- *Development*, including financing, fundamental human rights, gender equity, poverty, and population; and
- *Trade*, including corporate exploitation, North/South economic divisions, the roles of international institutions, and privatization of public services and infrastructure.

Although it took place amid concerns about terrorism and a worldwide economic downturn, the Summit produced some tangible results. Intense negotiations resulted in commitments by governments in five priority areas: Water and sanitation, energy, health, agriculture, and biodiversity and ecosystem management. Governments approved two major negotiated documents: The Johannesburg Declaration on Sustainable Development and the Johannesburg Plan of Implementation. In the Johannesburg Declaration, heads of state committed broadly to take action to make sustainable development a reality. The required actions were spelled out in some detail in the Johannesburg Plan of Implementation. Although many of the commitments do not specify timetables and leave room for national interpretation, a few involve specific targets and dates for achievement. These include (DESA 2002:2–4):

- **By 2010,** achieve a significant reduction in the current rate of biodiversity loss.
- **By 2010,** encourage the application of an ecosystem approach for sustainable development of the oceans.
- **By 2015,** cut by half the number of people with incomes less than US$1 per day and the proportion of people who suffer from hunger.
- **By 2015,** cut by half the proportion of people without access to safe water or sanitation.
- **By 2015,** reduce mortality rates for children under 5 by two thirds, and maternal mortality rates by three quarters.
- **By 2015,** maintain or restore depleted fish stocks to levels that can produce maximum sustainable yields.
- **By 2020,** use and produce chemicals in ways that do not lead to significant adverse effects on human health and the environment.

Notably, governments failed to reach agreement on a target for increasing the share of renewable energy in the world's energy mix, a topic of considerable negotiation due to its relevance to climate change (La Viña et al. 2003:63).

Both the Johannesburg Declaration and Plan of Implementation are political documents and, therefore, are not legally binding on governments. Like Agenda 21 before it, the Plan of Implementation is designed to guide development, financial, and investment decisions by governments, international organizations, and other stakeholders.

In addition to these official government commitments, a myriad of non-official parallel processes, drawing thousands of participants from around the world, were convened in and around Johannesburg at the same time as the official summit. The events included conferences of business leaders, civil society groups, local authorities, scientists, and chief justices. Two of the main parallel processes were the Global People's Forum (GPF) and the Kimberley Summit of Indigenous Peoples. The

GPF was attended by thousands of representatives from nongovernmental organizations, a majority of them from the South, and resulted in two documents:

- *A Declaration* that calls on all governments to fulfill Rio commitments and civil society to participate in implementing these commitments, while reaffirming the rights of specific stakeholders (GPF 2002a).

- *A Programme of Action* that makes recommendations based on principles of human rights, economic justice, and environmental protection (GPF 2002b).

Meanwhile, indigenous peoples came together for the Kimberley Summit, held during the four days leading up to the WSSD's official process. The Summit produced both a political declaration in which indigenous peoples reaffirm their relationship to Mother Earth and their responsibility to coming generations to uphold peace, equity, and justice (IIPSSD 2002), and an accompanying plan of action. These and the many other parallel events are a unique accomplishment of the Johannesburg Summit. They represent a diversity of voices and interests previously unseen, and highlight the success of the sustainable development concept in spreading beyond the purview of governments and gaining prominence on the international stage.

Overall, the form and outcomes of the Johannesburg Summit reflect a 30-year evolution of the idea of global environmental summits. When the UN Conference on the Human Environment convened in Stockholm in 1972, it represented the first serious international attempt to grapple with global environmental problems, and gave birth to new institutions such as the UN Environment Programme as well as inspiring new environmental treaties to save species and curb pollution. Twenty years later at Rio, the global agenda had matured, manifesting in the Rio Declaration of key governance principles and Agenda 21, which gave substance to the idea of sustainable development.

Ten years after that, in Johannesburg, the tenor of discussion had again changed, focusing more on the social and economic pillars of sustainable development, and less exclusively on the environment. At the same time, a far more diverse array of actors beyond governments had become involved in setting and negotiating the agenda. While many viewed the official outcomes of the WSSD as modest at best, their limitations probably reflect the difficulty of reconciling apparent conflicts between the environmental, social, and economic aspects of sustainable development as nations perceive them today (Speth 2003:28–29).

or legislation and through participation in global accords. At a national level, most countries now have ministries or other agencies responsible for environmental matters. A recent UN review provides a more detailed description of the many actors and mandates that comprise the international environmental governance system (See: UNEP 2001a:9–14).

In one sense, the complexity of this system reflects the complexity and diversity of environmental issues themselves. Environmental concerns span a huge range, touching almost every aspect of human existence: The clean drinking water that is essential to health; the soils, fisheries, and other natural resources critical to much economic activity; the continued viability of ecosystems and the stability of Earth's climate that affect all living things. Not surprisingly, a large number of entities, governmental and nongovernmental, have a stake in how international environmental issues are resolved. But the proliferation of international bodies that deal with one aspect or another of the environmental agenda also reflects the rapid evolution of that agenda over the past three decades and the proliferation of new entities and structures to deal with it. Regardless of the cause, the complexity poses a real challenge: setting coherent and achievable policies and coordinating actions. How well has the symphony played together?

Some Strengths and Achievements

Over the past 40 years, one clear achievement has been increased public concern and government attention to environmental issues at all levels. The diversity of agencies and agendas has meant programs and policy voices at an international level that respond to many concerns and touch many economic sectors. Diversity can be a strength and a source of resilience, in political and biological ecosystems alike.

Moreover, the international system has demonstrated that it can mobilize scientific and legal talent to expand understanding of environmental issues and build an impressive body of international environmental law. For example, many scientists around the world, coordinated by WMO and UNEP, contributed to the work of the Intergovernmental Panel on Climate Change, whose efforts in analyzing climate processes and projecting future trends under a variety of circumstances played a major role in building the consensus that brought nations to the negotiating table for the Kyoto Protocol.

UNEP has made major contributions to international environmental law, playing an important role in developing such legal regimes as the Montreal Protocol, the Convention on Biological Diversity, and the Convention to Combat Desertification. At the national level, it has helped more than 100 nations develop environmental legislation and institutions (Nagai 2003). IUCN also has an impressive track record in drafting and promoting national and international environmental legislation (Holdgate 1999:244). IUCN has helped over 75 countries prepare and implement national conservation strategies (UNEP 2002a:9–10) and participated in the drafting of the

Table 7.1: Selected Intergovernmental Organizations that Influence Environmental Governance

Organization	Estab.	Function	Website
UN Affiliated			
United Nations Environment Programme (UNEP)	1972	The voice for the environment within the United Nations system, UNEP acts as a catalyst, advocate, educator, and facilitator to promote the wise use and sustainable development of the global environment.	http://www.unep.org
United Nations Development Programme (UNDP)	1965	UNDP, the development arm of the United Nations, strives to connect countries to the knowledge, experience, and resources needed to meet the challenges of development.	http://www.undp.org/
Food and Agriculture Organization of the United Nations (FAO)	1945	FAO is the lead UN agency responsible for assessing the state of global agriculture, forests, and fisheries, and for promoting sustainable development and harvest of these resources.	http://www.fao.org/
Commission on Sustainable Development (CSD)	1992	The CSD is charged with follow-up to the Rio Earth Summit through monitoring and reporting on the implementation of the Earth Summit agreements.	http://www.un.org/esa/sustdev/csd.htm
United Nations Educational, Scientific and Cultural Organization (UNESCO)	1945	UNESCO promotes collaboration among nations through education, science, culture, and communication in order to further universal respect for justice, for the rule of law, and for human rights.	http://www.unesco.org
United Nations Industrial Development Organization (UNIDO)	1966	UNIDO works to strengthen industrial capacities of developing and transition nations with an emphasis on promoting cleaner and sustainable industrial processes.	http://www.unido.org/
International Atomic Energy Agency (IAEA)	1957	The IAEA serves as an intergovernmental forum for scientific and technical cooperation in the peaceful use of nuclear technology, promoting nuclear safety and non-proliferation.	http://www.iaea.org
International Maritime Organization (IMO)	1948	The IMO is responsible for improving maritime safety and preventing pollution from ships.	http://www.imo.org/
World Health Organization (WHO)	1948	The WHO catalyzes international cooperation for improved health conditions, including a healthy environment.	http://www.who.int
United Nations Population Fund (UNFPA)	1969	The UNFPA assists countries in providing reproductive health and family planning services, formulates population strategies, and advocates for issues related to population, reproductive health, and the empowerment of women.	http://www.unfpa.org
Intergovernmental Panel on Climate Change (IPCC)	1988	The IPCC was established under the auspices of UNEP and the World Meteorological Organization to assess scientific, technical, and socio-economic information relevant for the understanding of climate change, its potential impacts, and options for adaptation and mitigation.	http://www.ipcc.ch/

Convention on International Trade in Endangered Species, the Convention on Biological Diversity, and other major treaties.

Another strength has been in monitoring and analyzing environmental trends and assembling the data and information on which policy-making relies. UNEP has played a key role in these activities, publishing a long list of technical reports, atlases, and other specialized compendia, and its *Global Environment Outlook* report offers a broad overview of environmental conditions and trends. FAO has been a pri-

Table 7.1 (continued)

Organization	Estab.	Function	Website
Outside the UN System			
World Bank, International Monetary Fund (IMF), and regional development banks such as the Asian Development Bank or Inter-American Development Bank		Multilateral development finance institutions seek to reduce poverty in developing countries by formulating development assistance strategies and providing loans and technical assistance for a broad range of development activities.	http://www.worldbank.org http://www.imf.org
Global Environment Facility (GEF)	1991	As the designated financial mechanism for international agreements on biodiversity, climate change, and persistent organic pollutants, the GEF helps developing countries fund projects and programs that protect the global environment.	http://www.gefweb.org/
World Trade Organization (WTO)	1995	The WTO deals with the rules of trade between nations through the administration of trade agreements and by acting as a forum for trade negotiations and settling trade disputes.	http://www.wto.org
World Conservation Union (IUCN)	1948	The IUCN seeks to influence and assist societies to conserve the integrity and diversity of nature and to ensure that any use of natural resources is equitable and ecologically sustainable.	http://www.iucn.org/
International Council for the Exploration of the Sea (ICES)	1902	The ICES plans, coordinates, and promotes marine research, including the assessment of fish stocks, in the North Atlantic and adjacent seas.	http://www.ices.dk/

mary source of data and analysis on agriculture, fisheries, and forest trends. IUCN regularly publishes the Red Data Books–authoritative lists of threatened plant and animal species that inform much conservation policy at the national and international levels.

Catalyzing and publicizing new concepts is another strength. In 1983, by establishing the Brundtland Commission, the UN system helped catalyze new ways of thinking: The Commission's seminal report, *Our Common Future*, made "sustainable development" an important organizing concept and spurred the effort to integrate environment and development activities. IUCN was a leading voice in partnerships that produced the *World Conservation Strategy*, *Caring for the Earth*, and the *Global Biodiversity Strategy*, publications that helped popularize the terms "sustainable development," "ecosystem management," and "biodiversity," respectively. These are concepts that guide modern environmental policy-making. UNEP's *Environmental Perspectives to the Year 2000 and Beyond* was a driving force behind the convening of the UN Conference on Environment and Development, also known as the Rio Earth Summit.

Convening governments and setting guidelines or standards are special strengths of the international environmental governance system. This occurs on every scale–from small, technical workshops to international summits, and from procedural standards to "soft law" performance guidelines. In 1998, for example, World Bank President James Wolfensohn convened logging industry leaders to promote a shift to sustainable forestry. The World Bank also worked with IUCN and UNEP to convene the World Commission on Dams in an effort to develop international consensus on guidelines for decisions on building large dams (Dubash et al. 2001:1). The UN summits have not only focused international attention on environmental issues and brought government leaders and many other actors together, but also generated the political momentum needed to forge international treaties.

The World Bank Group has established requirements for Environmental Impact Assessments (EIAs) and other environmental "safeguard" policies and guidelines. These apply only to operations financed, cofinanced, or guaranteed by its constituent organizations, but often serve as de facto global standards, at least for developing and transition economies.

Many of the largest and riskiest development projects include World Bank participation, for example, and some private financiers adopt the Bank's procedures and guidelines to reduce risk even in privately financed projects. Voluntary or "soft law" guidelines are increasingly seen as means of generating consensus and action more rapidly than the time required to negotiate binding agreements.

Many developing countries have lacked the capacity to address environmental issues effectively. Here, development agencies such as UNDP and the World Bank have played major roles–by helping countries build the technical skills, legal instruments, and staff to manage pollution or natural resources more effectively. UNDP, for example, plays a direct role in environmental governance through its country offices, 90 percent of which have assisted governments with designing institutions and implementing policies to promote both poverty reduction and environmental goals (UNDP 2001:2). In Cambodia, for instance, UNDP worked with the government to develop a National Biodiversity Strategy and Action Plan, which was launched in July 2002 (UNDP 2003a).

UNDP also provides financial support, technical assistance, and training to intergovernmental organizations, research institutes, and nongovernmental organizations. For example, in the Nile River basin, UNDP has worked with 10 riparian countries, donors, and other international organizations to develop a legal and institutional framework for jointly managing the Nile's resources (NBI 2001).

In recent years, UNDP has become a pragmatic complement to UNEP's global environmental treaty-making efforts, and has helped countries take practical measures to implement global accords. For example, through its Montreal Protocol Unit, UNDP has provided 85 developing countries with technology, technical assistance, and training to help phase out ozone-depleting substances (UNDP 2003b). And in Europe's Danube River Basin, UNDP facilitated a partnership among 15 countries, regional commissions, the World Bank, NGOs, and other UN organizations to restore the badly degraded Black Sea ecosystem (ICPDR 2003).

These are tangible achievements. The symphony has clearly made meaningful music. But the present system of international environmental governance is not without serious difficulties.

Weaknesses and Challenges

One set of weaknesses stems from the virtual impossibility of coordinating such a complex set of actors to act in synchrony all the time. The results, according to a recent review of international environmental governance convened by UNEP, are gaps in international policy, fragmentation of effort, and sometimes competing or incoherent decision-making structures (UNEP 2001a:19). International policy has all too often focused on sectoral approaches: For example, separate approaches to land degradation, forest policies, and water management, often by different agencies, even though the three areas are intimately related (clearing of forests is a major contributor to erosion, flooding, and water quality problems). Ecosystem approaches, like those reflected in the Convention on Biological Diversity, overlap with sectoral approaches and, in some areas, with those focused on species, such as the Convention on International Trade in Endangered Species (CITES).

UNEP, in theory the lead agency for policy coordination, in practice has a mandate that overlaps with those of a dozen other UN agencies. It has neither real authority to set the agenda nor resources to play a major role across the full range of environmental issues. Consultation and coordination efforts are on the increase, but in practice, each international organization tends to make its decisions independently, guided by the wishes of the national governments that are most influential on its council or governing board. The result, all too often, is fragmentation and inconsistency. As the UNEP-convened review concluded, the absence of coordination "seriously undermines the formulation of a strategic approach" (UNEP 2001a:20).

In many ways, these international problems mirror patterns at the national level. There, too, sectoral approaches dominate, and mechanisms for cooperation and coordination among different government agencies are often ineffective. Environmental ministries often have smaller budgets and weaker political voices than, for example, those that directly manage productive natural resources such as agriculture or

determine economic policy–in developing and developed countries alike. And since it is predominately environment ministers who sit on UNEP's Governing Council, agriculture or forest ministers who have the greatest influence on FAO, and economic or finance ministers who talk to the World Bank, it is not surprising that policy gaps at the national level are repeated or reflected in the international system: In effect, it is fragmentation by design.

A second set of problems concerns weak support for existing institutions and oversight mechanisms. UNEP, for example, is financed mostly by voluntary contributions from UN member states. Participation fell substantially in the late 1990s–from 73 contributors in 1998 to 56 in 2000–but has since risen again (Cheatle 2003). At the same time, contributors have increasingly earmarked their money for special projects, reducing the agency's budgetary discretion. The result has been uncertainty and a reduced ability to plan and carry out core activities. Effective budgets for many UN agencies and the World Bank have also shrunk–even though budgets for environment-related activities at UNDP and the World Bank, for example, still dwarf that at UNEP. "Competing for scarce funds and political commitment, existing institutions are frequently torn between competing priorities... There continues to be a lack of financial resources for international environmental cooperation" (UNEP 2001a:20).

A third set of problems arises from the fact that decisions that govern production, trade, and investment often pay inadequate attention to protecting the environment and human needs. In effect, most development is not yet sustainable. This will be discussed in more detail later in this chapter, but one aspect of this problem also manifests itself within agencies committed to sustainable development, such as UNDP and the World Bank. Both organizations have attempted to integrate environmental concerns into all of their development efforts–an approach known as "mainstreaming." At the World Bank, for example, the portfolio of projects directly focused on the environment is substantial, valued at some $5 billion in 2000 (UNEP 2001a:21).

But beyond these explicitly environmental projects, the World Bank has met with more limited success mainstreaming environmental considerations into its loan portfolio. According to a recent analysis of the Bank's mainstreaming performance conducted by the Bank itself, there is still considerable ambivalence about incorporating environmental considerations into its lending (Liebenthal 2002:11). This reflects a lack of incentive and clear direction to make the environment a core consideration, as well as a lack of accountability for doing so. In the report's words, "The environment has too often been viewed as a luxury that can wait rather than a central part of the Bank's development strategy" (Liebenthal 2002:23). Again, these problems in the international system reflect a similar lack of integration of environment into broader economic decision-making at national levels.

Environmental Treaties: A Consensus for Stewardship

Environmental treaties–known as Multilateral Environmental Agreements (MEAs)–are the legal framework for international environmental governance. They are the official expression of the collective will of national governments to protect the environment and steward the Earth.

In theory, their rationale is relatively simple. Pollution across national borders and depletion of shared resources such as migratory wildlife, the stratospheric ozone layer, or the global climate threaten environmental quality and jeopardize economic prosperity and human welfare–both locally and, sometimes, regionally or globally. Controlling these harmful cross-border effects requires nations to limit their sovereignty somewhat for the common good. A nation agrees to sign a treaty because it believes the benefits of this mutual restraint–whether in the form of cutting pollution, sharing water resources, or the many other cooperative actions nations agree to in MEAs–will exceed the cost. Environmental treaties, then, depend on mutual understanding of what will be lost if nations do not cooperate, what will be gained if they do, and how much compliance will cost–in both economic and political terms (Haas and Sundgren 1993:402; Brack 2000:11; Barrett 2002:133–164).

Environmental treaties cover a vast array of international environmental issues. Some establish regimes for conserving wildlife, fish, or plant species. Others coordinate policies for preventing the spread of plant diseases like Dutch Elm disease, or of insect pests such as locusts or Mediterranean fruit flies. Many treaties, including several of the more familiar ones such as the Kyoto Protocol, require nations to curtail their emissions of air or water pollutants, or regulate their shipment and disposal of toxic wastes. Still others regulate trade in endangered species, set rules for transport on international waterways, or set formulas for sharing the water in international river basins (UNEP 2001c:3–4, 13–15; Barrett 2002:133–134). (See Table 7.2.)

International environmental agreements are not new. The first bilateral treaties on hunting and fishing were forged in the 18th century, and the first multi-country treaty focused on endangered species was signed in 1900–a treaty between the European colonial powers to conserve a number of African wildlife species (Sand 2001:3). Over 500 separate MEAs currently exist, even though many–over 300–concern regional issues such as regulation of local fisheries and have a limited set of signatories. Some 60 percent of these treaties have been signed since 1972, the year of the Stockholm Conference on the Human Environment, which is considered the beginning of serious consideration of the environment at the international level (UNEP 2001c:3). (See Figure 7.1.)

The rapid growth in adoption of MEAs reflects more than just an emerging realization of the scope of environmental decline and its consequences. It also stems from the significant

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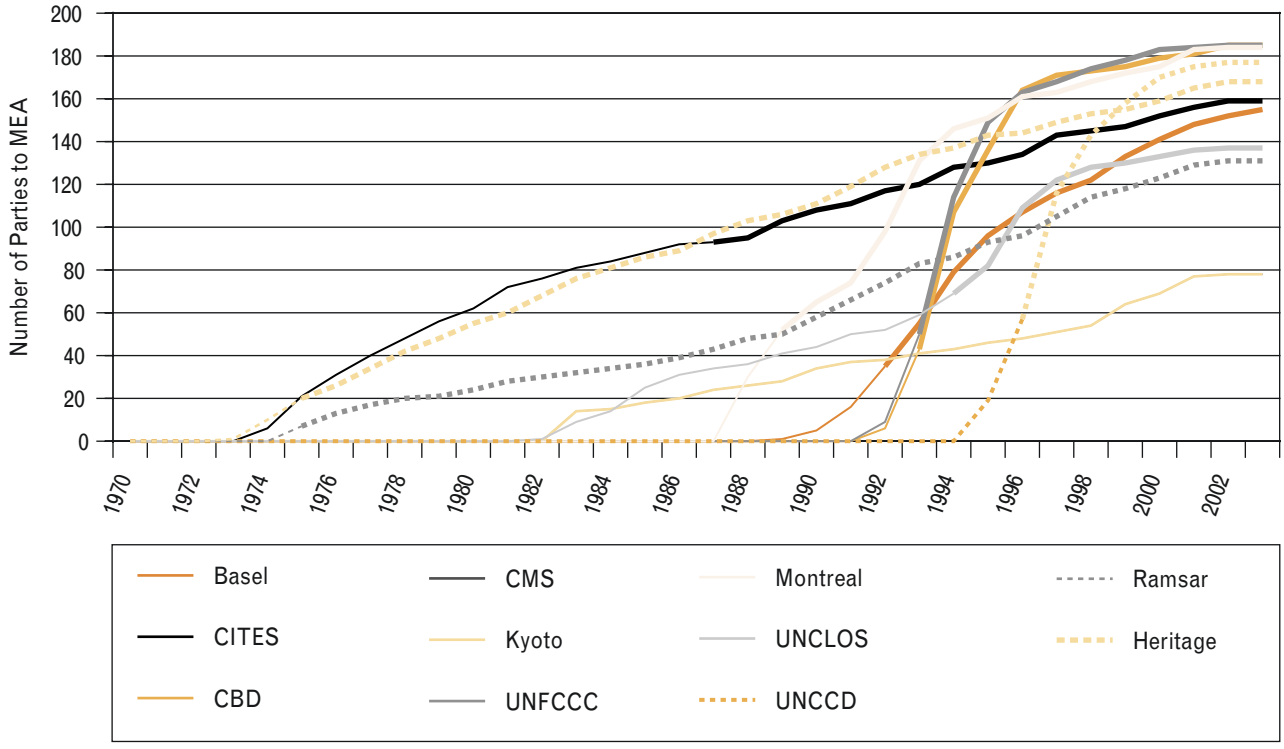
Table 7.2: Selected Multilateral Environmental Agreements (MEAs)

MEA	Purpose
Ramsar Convention - Convention on Wetlands of International Importance Especially as Waterfowl Habitat	To conserve and promote the wise use of wetlands.
World Heritage Convention - Convention Concerning the Protection of the World Cultural and Natural Heritage	To establish an effective system of identification, protection, and preservation of cultural and natural heritage, and to provide emergency and long-term protection of sites of value.
CITES - Convention on International Trade in Endangered Species of Wild Fauna and Flora	To ensure that international trade in wild plant and animal species does not threaten their survival in the wild, and specifically to protect endangered species from over-exploitation.
CMS - Convention on the Conservation of Migratory Species of Wild Animals	To conserve wild animal species that migrate across or outside national boundaries by developing species-specific agreements, providing protection for endangered species, conserving habitat, and undertaking cooperative research.
UNCLOS - United Nations Convention on the Law of the Seas	To establish a comprehensive legal order to promote peaceful uses of the oceans and seas, equitable and efficient utilization of their resources, and conservation of their living resources.
Vienna Convention - Convention for the Protection of the Ozone Layer	To protect human health and the environment from the effects of stratospheric ozone depletion by controlling human activities that harm the ozone layer and by cooperating in joint research.
Montreal Protocol - Protocol on Substances that Deplete the Ozone Layer (Protocol to Vienna Convention)	To reduce and eventually eliminate emissions of man-made ozone-depleting substances.
Basel Convention - Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal	To ensure environmentally sound management of hazardous wastes by minimizing their generation, reducing their transboundary movement, and disposing of these wastes as close as possible to their source of generation.
UNFCCC - United Nations Framework Convention on Climate Change	To stabilize greenhouse gas concentrations in the atmosphere at a level preventing dangerous human-caused interference with the climate system.
Kyoto Protocol - Kyoto Protocol to the United Nations Framework Convention on Climate Change	To supplement the Framework Convention on Climate Change by establishing legally binding constraints on greenhouse gas emissions and encouraging economic and other incentives to reduce emissions.
CBD - Convention on Biological Diversity	To conserve biological diversity and promote its sustainable use, and to encourage the equitable sharing of the benefits arising out of the utilization of genetic resources.
UNCCD - United Nations Convention to Combat Desertification	To combat desertification, particularly in Africa, in order to mitigate the effects of drought and ensure the long-term productivity of inhabited drylands.
Aarhus Convention - Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters	To guarantee the rights of access to information, public participation in decision-making, and legal redress in environmental matters.

Note: Status as of June 2003; European Union included in count of parties and calculation of world percentage.
Source: Stokke and Thommessen 2002 and Secretariat websites.

	Date Adopted	Entry into Force	Parties to MEA	Percent of World Nations that are Party to MEA	Secretariat and Annual Budget
	1971	1975	136	70%	IUCN, Ramsar Convention Bureau. Gland, Switzerland. Core budget: $2.4 million (2002).
	1972	1975	176	91%	UNESCO, World Heritage Centre. Paris, France. Budget: $8.1 million (2002-2003).
	1973	1975	162	84%	UNEP, CITES Secretariat. Geneva, Switzerland. Administrative budget: $6.7 million (2002).
	1979	1983	84	44%	UNEP, CMS Secretariat. Bonn, Germany. Core budget: $1.8 million (2002).
	1982	1994	142	74%	United Nations, Division for Ocean Affairs and the Law of the Sea. New York, United States. Division budget: $3.1 million (2003).
	1985	1988	185	96%	UNEP, Ozone Secretariat. Nairobi, Kenya. Administrative budget: $1.2 million (2002).
	1987	1989	184	95%	UNEP, Ozone Secretariat. Nairobi, Kenya. Administrative budget: $3.9 million (2002).
	1989	1992	158	82%	UNEP, Secretariat of the Basel Convention (SBC), Châtelaine, Switzerland. Budget: $4.2 million (2002).
	1992	1994	188	97%	United Nations, Climate Change Secretariat. Bonn, Germany. Total budget: $16.8 million (2003).
	1997	Not yet in force	110	57%	United Nations, Climate Change Secretariat. Bonn, Germany. Total budget: $16.8 million (2003).
	1992	1993	187	97%	UNEP, Secretariat for the Convention on Biological Diversity. Montreal, Quebec, Canada. Core budget: $10 million (2002).
	1994	1996	187	97%	United Nations, Secretariat of the Convention to Combat Desertification. Bonn, Germany. Core budget: $15.3 million (2002–2003).
	1998	2001	25	13%	Aarhus Convention Secretariat, Environment and Human Settlement Division (ENHS), United Nations Economic Commission for Europe (UNECE). Geneva, Switzerland. Core budget: $855,000 (2003).

Figure 7.1: Growth in Numbers of Parties to Selected MEAs



Note: Lines turn thick after a treaty enters into force.

Source: Adapted from UNEP 1999:201

increase in the total number of nations after the independence movement of the 1950s and 1960s. As the number of nations–and national boundaries–has grown, the occurrence of transboundary effects has been more pronounced and the need for treaties more apparent (Barrett 2002:136). The most important MEAs cluster into five areas: biodiversity, atmosphere, land, chemicals and hazardous wastes, and marine issues.[1]

The Changing Face of Environmental Agreements

Environmental treaties have changed in nature over the decades since 1972. Treaties negotiated in the 1970s and early 1980s were usually limited to single issues, such as pollution prevention or conservation of certain species (UNEP 1999:199–202). Important agreements from this era include the Convention on International Trade in Endangered Species (CITES), whose goal is to protect vulnerable species from depletion through illegal trade; the Ramsar Convention, which established a regime for protecting wetlands important to migrating waterbirds; and the Convention on Long-Range Transboundary Air Pollution, intended to address acid rain and other immediate air pollution effects.

By the mid-1980s and early 1990s, attention had shifted to broader treaties that provided "frameworks" for action on overarching topics such as climate change and biodiversity loss. The Rio Earth Summit in 1992 was the inspiration and launching event for MEAs of this type. These agreements treated the biosphere as an integrated system, rather than as disconnected forestry, marine, wildlife, and atmospheric sectors. The important role of ecosystems was acknowledged for the first time. Framework agreements launched at the Earth Summit were the UN Framework Convention on Climate Change–the mother of the Kyoto Protocol–and the Convention on Biological Diversity (UNEP 1999:202).

Both of these agreements were broad in their provisions and strove for nothing less than the sustainable use of the planet's climate and living resources. Both also stressed equity issues–the need to distribute equitably the benefits of conserving biodiversity and the costs of cutting greenhouse gas emissions. However, the detailed provisions for how to achieve these noble ends were, for the most part, left to be determined by later follow-on treaties or protocols–a task with which the international community is still wrestling.

Indeed, the current era in environmental treaties is shaping up as a time of refinement and increasing specificity in determining what actions treaty signatories must take to

[1] Detailed discussion of major treaties since 1972 can be found in UNEP's Global Environment Outlook 3 report (UNEP 2002a). On-line at: http://www.unep.org/geo/geo3/.

Environmental treaties have demonstrated some clear strengths. They represent in their sheer number a substantial body of international law—the very fabric of governance.

make these agreements effective, and what incentives are required to make nations participate and comply with their commitments. This could be called the "era of implementation and compliance," whereas the Earth Summit period aimed mainly to gain wide agreement on norms for environmental stewardship and the definition of sustainable development. Rather than negotiate a series of ambitious new MEAs, the belief among many observers is that it is time to make existing treaties work (Brack 2000:2; Speth 2002:20).

As the nature and goals of treaties evolved, the process for crafting these agreements changed as well. What had been a largely closed negotiating process where governments bargained in private began to open gradually to the influence of civil society groups. As environmental and human rights NGOs gained influence in society, they also started to play greater advisory and advocacy roles, particularly in the beginning stages of MEA formation, when the issues and possible solutions were still being defined. For example, the UN Convention to Combat Desertification requires nations to involve local communities in creating action plans to combat desertification, and to enlist them in reviewing the effectiveness of these plans (United Nations 1994).

Civil society groups have also become important contributors to the continuing life of treaties—the series of official meetings called "conferences of the parties" that address day-to-day problems of how to implement the provisions of a treaty and how to improve it through new provisions and refinements (Dodds 2001b:3).

Some Strengths of MEAs

Environmental treaties have demonstrated some clear strengths. To start with, they represent in their sheer number a very substantial body of international law—the very fabric of governance. MEAs also are not static documents, but living institutions—agreements that, while formally set down, are always subject to renegotiation as parties to the agreement change or new circumstances arise (Porter and Brown 1996:147). As a result, many environmental treaties have gradually strengthened their provisions and refined their procedures to improve performance. For example, the provisions of the Montreal Protocol on Substances that Deplete the Ozone Layer, which called for a gradual phase-out of ozone-destroying CFCs, were strengthened several times as new scientific evidence surfaced showing the severity of global ozone depletion. The nations that signed the treaty agreed to speed up the phase-out and further restrict the most damaging ozone-destroying chemicals.

Negotiators have also successfully pioneered a variety of innovations to make environmental treaties more effective. One approach is to offer selective incentives to countries that might not otherwise sign a treaty. These typically involve payments of money, technology transfers, or access to trade. For example, the Montreal Protocol established a special fund, bankrolled by industrial nations, to help developing nations pay for the conversion to ozone-friendly chemicals. Additional funds were made available through the Global Environment Facility to assist transition countries. The Convention on Biological Diversity offers parties access to biological and genetic resources, and contains provisions for compensation and technology transfer in return for participation (Tolba and Rummel-Bulska 1998:17–18).

Use of such innovations, combined with the power of treaties to act as global convening forums, has resulted in some notable achievements. CITES, for example, put in place a global ban on trade in ivory to discourage illegal poaching of elephants, as well as a robust noncompliance procedure that has been successfully applied many times (Brack 2001: 14–15). Elephant recovery has shown the effectiveness of the ban, and limited return to ivory trade shows that the treaty is still actively evolving and responding in real time to changing conditions.

The Montreal Protocol is perhaps the most positive example to date of what the global community can achieve under the right conditions, through a treaty regime. Treaty negotiators crafted a plan to phase out ozone-depleting chemicals on an ambitious schedule, with a 10-year grace period for developing nations. Although CFCs and other ozone-depleting compounds were in widespread use in 1987 when the treaty was signed, less harmful substitutes were available and industry generally embraced the accord. The innovative financing efforts helped both developing and transition economies make the change (GEF 2002:14–16). As a result, compliance with the agreement has been high, the phase-out has gone as scheduled, and concentrations of CFCs in the atmosphere have started to drop—tangible progress toward the treaty's environmental goal (GEF 2002:14–16; WMO 2003:1).

Even where there has been relatively little progress, such as under the UN Framework Convention on Climate Change and its follow-on, the Kyoto Protocol (which is not yet in force as of mid-2003), preparatory activities and the mere existence of the treaty have had useful impacts. For example, efforts to prepare national inventories of greenhouse gas emissions have increased awareness and understanding of the threat to Earth's climate. The treaties have also spurred efforts to model climate change and its effects on ecosystems and created a credible scientific forum–the Intergovernmental Panel on Climate Change (IPCC)–to interpret this research and its implications for policy (IPCC 1995; 2001). Similarly, the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and Their Disposal provided a forum where the problems of toxic waste dumping from industrialized to developing nations attained a high profile, and the dimensions and economic drivers of the global waste trade were revealed (Agarwal et al. 2001:83–86).

An important addition to the formal legal framework of treaties are "soft law" approaches. "Soft law" refers to guidelines, norms, and even action plans that are non-binding and depend entirely on voluntary compliance. Not only are such approaches less difficult and time-consuming than formal legal treaties, they can also engage parties other than governments, such as civil society and private industry. An example is the UNEP-administered Global Programme of Action to address land-based sources of marine pollution. By holding meetings and engaging a wide range of participants, the action plan aims to build consensus and stimulate voluntary activity. Moreover, soft law approaches often help to create awareness, solution models, and other conditions that can, in time, lead to formal treaties. Just such an evolution led to enactment of the Basel Convention.

Limitations of MEAs

A two-year review of international environmental governance convened by UNEP (the IEG review) underscores some important problems related to environmental treaties. For example, although MEAs are legally binding instruments, international mechanisms to settle disputes arising from these agreements remain weak, and so does implementation. More than a decade after the high-profile signing of climate and biodiversity framework conventions at the Rio Earth Summit in 1992, nations are still struggling to bring definition to the broad provisions of these treaties, draft protocols that bring binding targets to their ambitious goals, hammer out action plans that can achieve political buy-in, find funds to pay for these activities, and design indicators to measure whether progress is being made (UNEP 2001a:19–21, 54).

Moreover, according to the IEG review, the existing array of environmental treaties lacks coherence, when viewed either in the context of today's important environmental policy issues or in the broader context of sustainable development. Largely because of the way in which MEAs have evolved over the past few decades, they are not really a unified system of international law at all. There is no mechanism to bind the MEAs together in any formal sense or to develop common approaches. Nor have most environmental treaties arisen from holistic views of the environment, or coordinated attempts to address the relationships among environmental issues. This has resulted in a treaty system that is fragmented and focused sectorally, with separate agreements on pollution abatement, conservation, and other goals (UNEP 2001a:18). Both the IEG review and other assessments emphasize the need to move away from sectoral efforts toward a more integrated approach that reflects the "interconnectedness of the global environment" (UNU 1999:8–12; UNEP 2001a:18–19; Dodds et al. 2002:1–15).

Perhaps most important is that despite all the treaties, and the complex network of international organizations focusing on environmental matters, environmental conditions in much of the world continue to worsen. A forum of environment ministers (the Global Ministerial Environment Forum) meeting in Malmö, Sweden, in May 2000 adopted a declaration expressing deep concern about the increasing rate of deterioration of the environment and the natural resource base (UNEP 2000). From this perspective, the success of the Montreal Protocol in halting and beginning to reverse the environmental condition that gave rise to the treaty is rare, if not unique. Underlying these failures to achieve intended goals are a number of weaknesses in both the process of negotiating treaties and in their design and implementation:

- *Slow negotiation and ratification:* International negotiating processes must accommodate the differing views of as many as 190 governments. As a result, they are often excruciatingly slow, often with a decade passing between the time the international community begins to mobilize and the time a final treaty is signed. Even then, the treaty does not immediately enter into force, since it can take years to be ratified by some minimum number of countries. The negotiations for the UN Law of the Sea, one of the primary treaties dealing with management of coastal and deep sea waters, spanned a period of 9 years before its signing in 1982, and required another 12 to muster the ratifications it required to enter into force (United Nations 2003). This delay between identifying a problem and acting on it is particularly troublesome because environmental problems can amplify quickly, calling for rapid response. For example, governments who are party to the Biodiversity Convention recently acknowledged that "biological diversity is being destroyed by human activities at unprecedented rates" (CBD 2002).

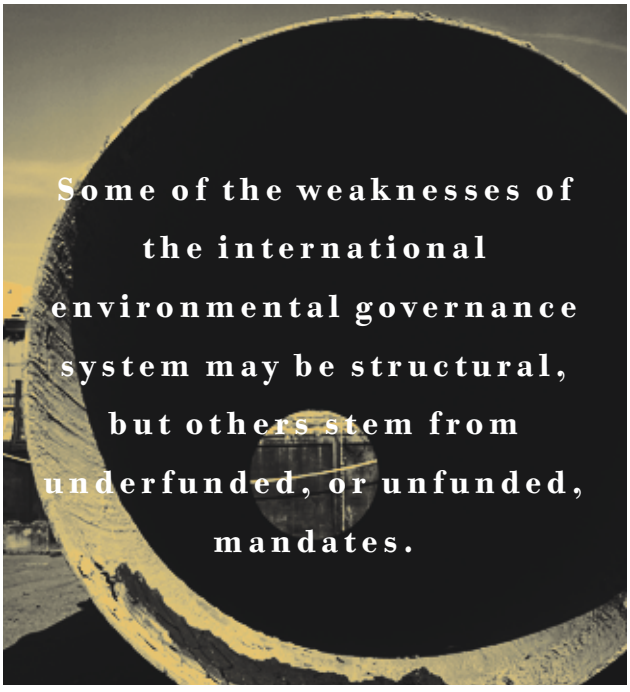
- *Compromising toward the lowest common denominator:* Treaties are forged by consensus, so some compro-

mises are to be expected. However, there is often a pronounced tendency toward lowest common denominator bargaining, where ambitious goals, mandated targets, and firm timelines are either removed or diluted. Consensus bargaining gives nations who want to preserve the status quo great leverage in treaty negotiations and later conferences of the parties, particularly if their cooperation is crucial to achieving the goals of the agreement. Such strategies weaken treaties to achieve greater participation, but risk forging an agreement that can't meet its environmental objectives.

- *Lack of monitoring for compliance or performance:* A high percentage of treaties do not insist that nations monitor their compliance in any systematic way or attempt to measure the impact of their actions. For example, the Basel Convention does not contain provisions for tracking either compliance or implementation (Agarwal et al. 2001:107–108). Even if nations wish to measure their performance, they often lack acceptable indicators to measure. In fact, UNEP reports that a lack of indicators to measure MEA effectiveness is a significant obstacle to better performance (UNEP 2001b:34).

- *Lack of provisions for enforcement:* With little mandatory monitoring of MEAs, it is perhaps not surprising that enforcement is weak as well. In large part, environmental treaties rely on an "honor system" with little, if any, accountability other than the public pressure that NGO watchdog groups can apply (Dodds 2001b:7). Indeed, even if governments are shown to be out of compliance, they are rarely called to account. Only a small number of environmental treaties actually include robust enforcement mechanisms, such as trade sanctions, fines, or withdrawal of technical or financial aid (Barrett 2002:164). Lack of compliance is often dealt with using "soft" approaches, including notices or warnings, or offering technical assistance to help the party comply (UNEP 1999:204). This may be helpful if parties are in fact striving to comply. But it may fail if the will to comply is weak.

- *Lack of technical and financial resources:* Many developing nations simply lack the technical capacity and financial means to fully carry out their responsibilities under the environmental treaties they have signed (Paoletto 1999:8–11). They may not, for example, be able to police their coasts to enforce fisheries conventions, subsidize the transition to cleaner energy technologies to cut carbon dioxide emissions, or carry out widespread campaigns to educate citizens about the need to conserve forest biodiversity. Systematic underfunding of treaty obligations–even such simple ones as filing timely reports or attending conferences of the parties–is a common and significant obstacle to making treaties effective at national and international levels.



Problems of Scale and Unequal Influence

The sheer number of MEAs has become an increasing problem. In addition to the staff and money needed to design and carry out meaningful action plans, the day-to-day logistics of servicing so many agreements can be daunting. UNEP reports that European Community countries are currently parties to as many as 65 global and regional environmental agreements (UNEP 2001b:4). Each may involve its own reporting requirements, monitoring regime, trips to conferences of the parties, and annual dues for financing the treaty secretariat. For smaller nations, this can impose significant burdens on staff time and resources, and make it difficult to be substantively involved in the ongoing decision-making and negotiation that typify the life of an active treaty (Hyvarinen and Brack 2000:33).

In addition, major treaties usually establish substantial permanent offices, or secretariats, to manage their affairs and coordinate among the parties. As the focus of effort shifts to implementing the treaty, secretariats often begin to develop programs and agendas, becoming in effect little UN agencies with their own mandates, activities, and governance. This simply adds to the proliferation of agencies and fragmentation of governance. In addition, these secretariats are often physically and organizationally remote from one another, reducing exchange.

A potentially more difficult set of problems stems from the unequal influence of developing and developed countries in the system of negotiating environmental treaties–often to

the perceived detriment of developing countries. First, industrialized countries are selective in their engagement in global environmental negotiations. For example, industrialized countries—and in particular the United States—exercised strong leadership to achieve international agreement on the Montreal Protocol in 1987 (Benedick 1991:6–7). Among other consequences, disappearance of the ozone layer would have increased the risk of skin cancer in the temperate latitudes where most industrialized nations occur. By contrast, industrialized countries have been relatively disinterested in the Convention to Combat Desertification, which is of most interest to African countries (Agarwal et al. 2001:1, 305).

Second, industrialized countries are also selective in the issues they address in global forums. For example, within the context of the UN Framework Convention on Climate Change, industrialized countries have neglected issues of equity, adaptation, and stabilization of atmospheric greenhouse gas concentrations—issues of interest to developing countries—while focusing on so-called "flexibility mechanisms" designed to reduce the cost of mitigation efforts, benefiting developed countries most (Sokona et al. 2002:2–3).

Third, developing countries are handicapped in their negotiating power by a variety of constraints (Gupta 1997: 132–149). For example, developing countries are often represented in international environmental negotiations by smaller delegations with less experience or knowledge than those from industrialized countries. And some environmental conventions, including both the Montreal Protocol and the Aarhus Convention, were negotiated solely by industrialized countries with developing countries encouraged to sign on later.

These multiple problems do not take away from the significant accomplishments of treaties. Without MEAs, the international community would be far less environmentally mobilized, and ecosystems would be at even greater risk. But it does indicate that the current collection of international environmental agreements is not likely to provide sufficient impetus for clear, coordinated action that can counter current environmental trends.

Financing for the Global Environment: Paying the Piper Poorly?

Support for addressing global environmental issues comes from several sources. They include bilateral aid agencies, multilateral organizations such as the World Bank and UN organizations, and the domestic budgets of individual countries. They also include international funding mechanisms set up specifically for environmental purposes, such as the Global Environment Facility (GEF) and other mechanisms associated with specific environmental treaties. NGOs, foundations, and other civil society organizations play increasingly important roles; so, indirectly, do private capital flows.

Among major agencies, the World Bank in 2000 had an active portfolio of more than $5 billion in environmental projects; UNDP had a portfolio of more than $1.2 billion, in addition to efforts in capacity-building and sustainable energy; UNEP managed about $285 million in GEF funds and another $85 million in its own projects (UNEP 2001a:21–22, 26).

The UN target for official foreign aid from nations is 0.7 percent of those nations' gross national products. This target was reaffirmed at the Rio Earth Summit. Yet, foreign aid levels fall far short of this goal, except in Nordic countries and the Netherlands, and have generally declined over the past decade (UNEP 2001a:21). Commitments made at a 2002 conference on financing for development held in Monterrey, Mexico, may begin to reverse this trend (Bush 2002). But with bilateral and multilateral budgets declining and increasingly directed toward new problems—from AIDS to rebuilding Iraq—the general climate has been one of increasingly scarce resources for official support of environmental concerns.

Innovation in Financing

In this context, the GEF has been an important innovation. Governments of the Organisation for Economic Co-operation and Development (OECD) established the GEF in 1991 as a "green fund" pilot program during the run-up to the Rio Earth Summit. The GEF was formally launched in 1994 with a mandate to help developing and transition nations implement the new climate and biodiversity treaties they signed at Rio, and to fund experimental or innovative approaches in those areas and also in ozone depletion and the sustainable management of international waters. Since then, additional mandates, such as addressing land degradation and persistent organic pesticides, have been added.

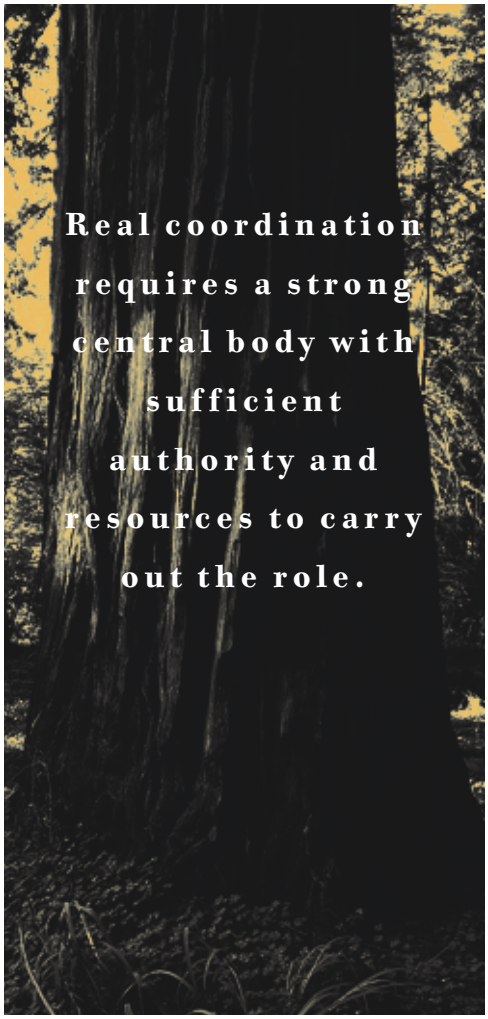
The GEF is designed to support projects with global environmental benefits, rather than projects that serve national development goals alone. It works by funding the "incremental costs" of these projects; that is, that portion of the cost over and above what the country would have spent on the project to achieve its own ends. In its first decade, GEF funded some 700 projects in 150 countries, spending $3 billion of its own money and attracting $8 billion in additional financing (UNEP 2001a:23).

The GEF works through a trio of implementing agencies—the World Bank, UNDP, and UNEP—and a small group of other international organizations, who originate and manage GEF-funded projects. Although technically the GEF operates as a trust fund within the World Bank, it has its own governing council comprised of representatives from 32 member countries. Because GEF funds are much in demand, particularly as other sources of multilateral funding have declined, this has given GEF leverage to strengthen the environmental component of many development projects.

Quite apart from its financing role, the GEF is significant from a governance perspective because it has become one of the most transparent international organizations. Independent reviews of its processes and progress are conducted every four years, and the GEF has noticeably shifted its internal bal-

ance of power by increasing developing country representation on its council and furthering its engagement with developed and developing country NGOs. The result has been described as a model of how "modern governance structures" might be designed (Streck 2001:93).

According to the most recent evaluation of its work in 2002, GEF-supported projects have produced "significant results aimed at improving global environmental problems" (GEF 2002:x). Notable successes cited by the independent review include a rapid phase-out of the use of ozone-depleting compounds in Eastern Europe and the independent republics of the former Soviet Union; considerable improvements in heating and lighting efficiency in a number of countries such as Hungary and Mexico; demonstration and eventual commercialization of coal bed methane retrieval in China; and formation of conservation trust funds to support operations in parks or other ecologically significant protected areas in many countries. More than 700 NGOs have participated in carrying out GEF projects. While noting its successes, the review also observed that it is not clear whether GEF projects have yet had a measurable impact on most of the global threats it seeks to address (GEF 2002:xi, 17, 19–20, 91).



But if the GEF has proven an important addition to funding mechanisms for the global environment, it has also added to the challenge of coordination described earlier. To support implementation of treaties, for example, the GEF has to coordinate with the treaty secretariats. Moreover, instead of using the GEF as a general purpose funding vehicle for new international environmental agreements, the international community has established a variety of additional trust funds and other mechanisms. For example, the conference of the parties for the Convention to Combat Desertification established its own separate funding entity called the Global Mechanism.

Matching Mandates with Resources

Some of the weaknesses of the international environmental governance system may be structural, but others stem from underfunded, or unfunded, mandates. International organizations can do little without the resources to hire expert staff, collect and analyze data, hold meetings, or fund projects. But as the environmental agenda has expanded and the number of issues and treaties has grown, the resource base available to support it has not expanded comparably. The result is a mismatch of expectations and capacity.

UNEP is a case in point. Although designated as the principal environmental policy body for the UN system, its resources have fluctuated, limiting its capacity to lead or even to coordinate activities across the wide spectrum of its responsibilities. Compounding these difficulties has been the uncertainty of its budget from one biennial budgetary period to the next. The uncertainty arises because contributions to the core UNEP budget are voluntary and thus can change rapidly. Moreover, most of UNEP's other resources come from more than 68 separate trust funds established by donors who want to earmark the money for specific projects or purposes (UNEP 2003). As a consequence, this money may not meet the agency's needs or priorities. For the 2000–2001 biennium, core and earmarked sources together totaled just over $200 million (UNEP 2002b:60)—an amount that was higher than in recent years, but still dwarfed by the environmental resources of the Bank, of UNDP, of the GEF, and even of some environmental NGOs. In addition, UNEP is an implementing agency of the GEF, but here, too, manages a relatively small portfolio.

Other agencies report budgetary pressures in their environmental work, too. In some bilateral agencies, for example, emphasis has shifted away from environmental or natural resource concerns to other priorities, from addressing poverty to international security—a consequence of the preoccupation with terrorism. The bottom line for the global environment is that resources are tight, making reform of international environmental governance more difficult.

Strengthening International Governance: Priority Tasks

Strengthening the current system of international environmental governance will require a mix of incremental and more fundamental reforms. Common to nearly all these reforms is a recognition of the need for greater coordination

and coherence among the multitude of existing international organizations that have environmental responsibilities. Even basic improvements in harmonization could bring benefits. For example, the Commission on Sustainable Development and the UN Commission on Social Development often meet at the same time in the same building, but the two bodies have no institutionalized means of interacting (Bernstein 2001:3).

Strengthen UNEP

However, the problem of coordination goes deeper than simply improving communication and joint planning among environmental institutions. Real coordination inevitably requires a strong central body with sufficient authority and resources to carry out the role. Thus, attention has focused on strengthening the capabilities of UNEP, which holds the UN mandate as the "leading global environmental authority" and is charged with coordinating international action on the environment in a manner that supports sustainable development (UNEP 2001a:4, 6, 29).

Strengthening UNEP's coordinating role could take several forms. One proposal is simply to bring all UN organizations with substantial environmental responsibilities under UNEP's aegis (UNEP 2001a:31). Other suggestions call for changes to UNEP's basic structure. For example, one idea is to upgrade UNEP from a United Nations "program" to a full-fledged "specialized agency" equipped with a new redefined mandate and its own budget funded from assessed contributions from UN members (UNEP 2001a:29). This would, presumably, both enhance its authority in the UN system and its financial stability. However, the political backing for such major restructuring is lacking at present. Indeed, nations at the recent World Summit on Sustainable Development in Johannesburg did not call for any major reform of UNEP's structure in their joint agreement at the summit's end.

A more incremental approach to improving UNEP's coordinating role may be to take better advantage of the annual Global Ministerial Environment Forum that UNEP convenes. In this forum, environment ministers from many countries convene with UNEP's Governing Council to review and revise the agency's environmental agenda and advise on areas for priority action. At its first session in 2000, more than 70 environment ministers attended, and subsequent sessions have also been well attended (Hyvarinen and Brack 2000:30, 55–56; UNEP 2001a:31; United Nations 2002:7, 9–10).

Since this forum holds the potential to command high-level government attention, broadening its role may be a ready way to increase UNEP's ability to set the international environmental agenda and to provide broad policy guidance. This could be done by expanding the range and depth of topics the ministers consider, supporting these deliberations with solid background research, and soliciting participation from civil society groups and the private sector. The effectiveness of the forum could be magnified with the inclusion of ministers from other government sectors that affect the environment, such as trade, finance, and agriculture. Otherwise, this forum risks the same kind of marginalization that already separates the environment from other economic sectors (Hyvarinen and Brack 2000:30, 55–56; UNEP 2001a:31; United Nations 2002:7, 9–10).

A necessary part of any attempt to strengthen UNEP is more substantial and reliable funding. As indicated above, UNEP's budget in 2000 and 2001 averaged just over $100 million per year–clearly incommensurate with its global responsibilities. Attention to this problem has increased in the last two years, and funding for the core budget has risen somewhat (UNEP 2002b:60). UNEP recently introduced a suggested scale for national contributions to its budget to help nations standardize their payments and add predictability to its budget (UNEP 2002b:60). Use of the scale is voluntary, but as many as 80 countries chose to comply and contributed accordingly (Drammeh 2003). While this represents progress, the mismatch between UNEP's mandate and budget remains a significant obstacle to its effectiveness.

Reorient the Commission on Sustainable Development

In the wake of the 1992 Rio Conference on Environment and Development, the UN General Assembly formed the Commission on Sustainable Development (CSD) and gave it the task of monitoring the implementation of Agenda 21–the Rio Conference's detailed plan for sustainable development. The CSD was also charged with guiding new sustainable development initiatives and developing the political impetus for nations to act on their Rio commitments. Unfortunately, in the years since its inception, the CSD has failed to become the catalyzing influence for sustainable development policy that many of its founders envisioned (Upton 2002:4).

Making good on the CSD's important mission will require refocusing its efforts so that it plays a more practical role in monitoring commitments that nations have made and reviewing progress in achieving agreed goals. This change has already begun. At its recent meeting in May 2003, CSD participants adopted a new work plan that focuses on helping countries share successful practices to implement Agenda 21 and examine the obstacles they meet and the policy options available to overcome them (CSD 2003a). This represents real progress in the longer-term transformation of CSD into an accountability mechanism.

Over the medium term, the CSD could also explore new ways to enhance the impact of future global sustainable development summits. Although summits are not strictly institutions, they occupy such a critical role in international environmental governance that reforming the way they are conducted is a priority. The Stockholm Conference in 1972 and the 1992 Earth Summit in Rio were landmark events in the history of global environmental governance. The WSSD, however, was perceived differently. Governments in Johan-

nesburg acknowledged that they need to do more to respond to the world's immense development and environmental problems. Nonetheless, they concluded weakly by ratifying existing efforts and approaches that have been found wanting (La Viña et al. 2003:62). High-level summits, especially those that involve heads of state, can be useful to galvanize action and resources. But they must be better organized, become more outcome-oriented and inclusive, and result in meaningful decisions. Otherwise, governments and the public will justifiably lose interest and the summits will become irrelevant.

Harmonize and Strengthen MEAs

Priority steps to improve the international framework of environmental treaties fall into three areas: Harmonizing international agreements and coordinating their implementation; putting into place practical mechanisms for treaty monitoring, compliance, and enforcement; and reforming the way treaty bodies, particularly conferences of the parties, do business.

Harmonizing and coordinating treaties is easier said than done. As long as there is no overarching institution responsible for overseeing all MEAs, complete integration of these treaties is unlikely. Nor is it even desirable. Experts note that the autonomous nature of most treaties has often led to greater innovation than a highly centralized approach would likely yield (Dodds et al. 2002:11). Nonetheless, some useful steps could easily be taken to increase coordination.

Clustering MEAs according to their content is one such step. MEAs naturally fall into a limited number of groupings, such as those focusing on biodiversity conservation, or those related to the atmosphere, or to the marine environment. Within these clusters, there should be opportunities to carry out a coordinated work plan that will help implement several treaties at once. This could come in the form of cooperative research, shared capacity-building and education programs, mutual efforts to help nations draft legislation that supports the provisions of several treaties at once, or cooperative monitoring of compliance (UNEP 2001c:9). At the very least, clustering could allow better data exchange and overall information flow among related treaty secretariats.

Improved cooperation among treaties will not amount to much, however, without better mechanisms for monitoring and verifying the performance of countries in meeting their treaty obligations. One of the major features of modern MEAs is the requirement that countries report on how they have implemented their commitments. But these national reports are meaningful only if they are subsequently assessed based on a set of performance benchmarks agreed on earlier, such as the emission reduction targets and timetables specified in the Kyoto Protocol. Even meaningful benchmarks for progress and firm deadlines for attaining them are not enough. They must be matched with a credible monitoring program and robust enforcement mechanisms, including trade or other economic sanctions, in the event of substantial noncompliance. Mechanisms for settling disputes among parties are likewise essential.

Reforming some of the decision-making procedures that treaties employ is another more radical step that nations could take to improve the environmental treaty regime. Most treaties specify that the parties to the agreement hold a regular conference of the parties (COP) where interpretations of treaty provisions can be made, new rules and provisions adopted, and performance reviewed. Ordinarily, all the important decisions relevant to the treaty are made by the COP. The problem with this process is that agreement within a COP is typically difficult to achieve. Political interests often become paramount: North-South differences and conflicting political and economic interests among developed countries are frequently highlighted, and progress stymied.

Expanded trade is a key feature of economic globalization and an unmistakable trend linked to economic growth. More trade seems inevitable as the world economy grows. What this will mean for the environment is not quite as clear.

Two fundamental shifts in how decisions are made in MEAs that could potentially speed the negotiating at COPs and make treaties more responsive to quickly changing environmental trends have been suggested. One shift would be to abandon the need for full consensus among the parties, at least for some issues, by substituting rule by a super-majority, or even a simple majority. This would speed the negotiating process and make it less subject to preserving the status quo. A second shift that would facilitate on-the-ground implementation of treaty provisions would be to give more power to specialized expert groups appointed by the parties–such as science advisory groups–to make certain kinds of regulatory and scheduling decisions that would not need to be approved by all the parties at a COP (Speth 2002:23).

An additional way to increase the effectiveness of environmental treaties might be to make fuller use of regional mechanisms to implement the provisions of MEAs. There is already a consensus for increased regional cooperation on the environment, since transboundary issues such as water management and air pollution are often most effectively addressed at the regional level. Indeed, a majority of the environmental agreements negotiated over the last 30 years are regional in scope (UNEP 2001c:3). In addition, such regional bodies as the European Union, the Organization of American States, and the Association of South-East Asian Nations have developed their environment-related work through ministerial forums such as the Environment for Europe and the African Ministerial Conferences on the Environment (AMCEN). Beyond enhancing these existing mechanisms, there is also a real opportunity to foster new institutions, such as river basin organizations, that are constituted to manage at an ecosystem scale. By their nature, these organizations can address transboundary issues from ecosystem perspectives, and can directly incorporate the goals of MEAs into their institutional structures and work plans (see Box 7.2).

International Trade and Finance: Can Environment Be Integrated?

International environmental governance goes beyond the confines of global treaties and organizations that deal explicitly with the environment. In fact, the most crucial environmental decisions often come from outside the environmental sector, from the economic mainstream. The challenge of integrating environmental thinking into economic decisions–the *integration principle* outlined in Chapter 1–surfaces prominently in the areas of international trade and finance. These two drivers of the global economy have their own governance structures–institutions such as the World Trade Organization and the system of multilateral development banks and export credit agencies–that can either contribute to or come into conflict with the goals of sustainable development.

Trade and Environment in Conflict?

Expanded trade is a key feature of economic globalization and an unmistakable trend linked to economic growth. More trade seems inevitable as the world economy grows. What this will mean for the environment is not quite as clear.

There is no doubt that trade activities have direct impact on natural resources and the environment. However, the physical and economic links between trade and environment are complex. There is no conclusive evidence that trade in and of itself necessarily harms the environment. Rather, trade often magnifies the environmental effects of economic activities. If an activity like logging or fishing is unsustainable,

trade can worsen its effects by increasing the scale of the activity. For example, global trade in fish products, which amounted to over $55 billion in 2000 (FAO 2003), contributes to overfishing of many valuable fish stocks such as blue fin tuna, cod, and red hake. Similarly, export-oriented cultivation of coffee, bananas, cotton, cut flowers, and many other crops can result in high pesticide and water use, drive conversion of natural forests to farm fields, and result in a loss of biodiversity (Thrupp et al. 1995:1–12).

Whether trade contributes to environmental degradation depends to a great extent on two factors: The strength of national environmental regulations, and the degree to which international trade regimes reinforce or undermine them. If a country's ability to regulate pollution and exploitation of natural resources is already weak, international trade can amplify existing problems. For example, a nation may ban the use of dangerous pesticides or logging of old growth forests. But if enforcement is rare, and world markets offer high prices for blemish-free fruit and hardwood timber, the economic incentive to violate the bans will be strong.

Whether trade rules strengthen or weaken environmental regulation depends on how trade and environmental policies mesh. The North American Free Trade Agreement (NAFTA) provides an example of each. On one hand, the environmental side agreement negotiated among Canada, Mexico, and the United States enables public interest groups to use the international forum to challenge governments that fail to enforce existing environmental laws. On the other hand, many fear that investment rules being negotiated under trade agreements will prevent governments from strengthening environmental regulations by limiting their ability to regulate in the public interest. NAFTA's Chapter 11 provisions, which allow foreign investors to recover losses incurred when regulations change, is a case in point (Brack 2001:10).

Meshing trade and environmental regulations is not straightforward. For one, the international structures that govern trade and the environment have developed in relative isolation and operate independently. In contrast to the loose global environmental regime, the global trade system is characterized by strong institutions–the World Trade Organization (WTO) and a number of regional trade regimes, such as NAFTA and the European Union (EU). These regimes have developed clear trade rules that garner nearly universal compliance, since the economic consequences of flouting the rules are severe.

The WTO, in fact, is the most powerful and effective institution for international governance that exists today. Some of its power comes from widespread participation in the world trade system, which nations cherish for its huge potential economic benefits. Yet, much of the WTO's strength comes from its ability to enforce its rules and resolve disputes among its members. If the WTO dispute settlement panel finds that a member country has violated its trade obligations, the economic sanctions it applies can be immediate and devastating. In most cases, this makes WTO rules self-enforcing, as countries seek to avoid disputes and trade sanctions (Sampson 2002:6).

The strength of the global trading regime could benefit the environment, but only if trade rules and environmental policies can be made to support each other. Theoretically, this should not be difficult. The preamble to the agreement establishing the WTO expressly recognizes the need for trade to support sustainable development and "protect and preserve the environment" (Sampson 2002:5). Likewise, NAFTA's preamble states that member countries will undertake their trade obligations in a manner "consistent with environmental protection and conservation" (NAFTA Secretariat 1992).

But in reality, there are several points of conflict or potential conflict between the global trade regime and the global environmental governance system. Where these conflicts occur, trade commitments have the potential to trump environmental ones.

The Problem of "Discrimination"

One source of inherent conflict between modern trade practices and environmental laws is the concept of "discrimination." Free trade practices rely on the idea that countries should not discriminate against the products of other countries on the basis of where or how they were produced. Domestic products should not be favored over imports that look and perform the same (UNEP and IISD 2000:26; Sampson 2002:6–7).

But this nondiscrimination principle runs counter to the basic premise of many international environmental policies: That countries *should* discriminate against products and processes that harm the environment, and favor those that minimize harm. This idea was behind a U.S. law that banned the import of tuna caught in a way that endangers dolphins, which frequently swim near tuna schools and are easily killed if fishers do not take special precautions. The tuna ban was applied in a way that trade advocates deemed protectionist, and in 1991, a tribunal of the General Agreement on Tariffs and Trade (GATT)–a precursor to the WTO–ruled against the law on the basis that it was discriminatory (Brack 2001:7; 2004).

This and other similar rulings gave the early impression that the nondiscrimination principle was irreconcilable with environmental goals. However, more recent cases show that WTO rules may allow certain exceptions to the principle if the environment-related trade measures are applied carefully. A U.S. embargo on imports of shrimp caught by boats that fail to use sea turtle exclusion devices was upheld once the United States made it clear that the embargo was narrowly and even-handedly applied (Brack 2004). The measure was intended to protect sea turtles from entrapment and death in shrimp trawls.

It is also important to note that WTO rules do permit nations to restrict trade on environmental grounds if necessary

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Box 7.2 Transboundary Environmental Governance: The Ebb and Flow of River Basin Organizations

What kind of governance arrangement best suits ecosystems that cross borders, such as large river systems? Local management alone is inadequate to sustainably manage natural systems that span many communities or even several nations. As a result, regional and multinational governance systems have begun to evolve to manage rivers and other natural resources that must be shared among many parties. River basin organizations (RBOs)—forums where governments that share rivers can come together to coordinate activities, share information, and develop integrated management approaches—are the most common expressions of such transboundary environmental governance.

Worldwide, there are 261 major river basins shared by two or more sovereign states, and even more river basins that cross local, state, or provincial boundaries within individual countries (Turton et al. 2000:1). Historically, shared rivers were governed through treaties at the international level, or interagency compacts at local or state levels. Today, river basin organizations constitute a fast-growing alternative. The International Network of Basin Organizations currently has 133 member organizations in 50 countries, and this does not include all RBOs at the local and state levels (INBO 2003).

A Growing Environmental Mandate

The traditional focus of international river governance has been fair water allocation, often aimed at preventing upstream states from taking more than their share. Maintenance of navigation rights and coordination of hydropower development among governments have also been important priorities. As the environment has become more of a concern, balancing interests has become even more challenging. Modern freshwater governance has begun to shift toward so-called "integrated river basin management"—a holistic approach that combines water and land management to develop and protect river basins as ecosystems. An important part of this approach is the goal of maintaining environmental flows, or water levels sufficient to sustain all the elements of aquatic ecosystems, such as wetlands and fish populations. This involves closer cooperation between upstream and downstream states to protect against basin-wide threats.

In principle, many RBOs acknowledge the need to adopt ecosystem-based approaches to basin management, recognizing that rivers and wetlands provide important ecological services like waste assimilation, floodwater storage, and erosion control. There is also increasing awareness that maintaining these services can provide social and economic benefits as well as environmental ones, including preservation of local livelihoods and alleviation of poverty within river basins (McNally and Tognetti 2002:9). In practice, however, RBOs have rarely succeeded in balancing social, economic, and environmental objectives.

Part of the problem is historical. Some well-established RBOs, such as the International Commission for the Protection of the Rhine, came into being before wide acceptance of the idea that a river's ecological services are as valuable as its water, hydropower, and navigation resources. The Rhine Commission was initiated in 1950 by the Netherlands, the Rhine's most downstream state, which was concerned about the quality of drinking water taken from the river. Since then, the Commission has gradually had to shift its agenda to accommodate wider concerns. Now, the organization's mandate encompasses "sustainable development of the entire Rhine ecosystem" (ICPR 2003).

The Murray-Darling Basin Commission (MDBC) in Australia has one of the most well-developed environmental mandates of all RBOs. The river basin falls entirely within Australia, but it spans five state boundaries, which makes integrated planning a considerable challenge. In 2001, the Commission adopted a series of objectives to make good on

its vision for "a healthy River Murray system, sustaining communities and preserving unique values" (Scanlon 2002:11). These include the goals of reinstating some elements of the river's natural flow regime; maintaining sufficient flow to preserve fish runs and keep the estuary at the river mouth healthy; and managing salinity and nutrient levels to reduce algal blooms and relieve strain on the aquatic ecosystem. Notably, the Commission adopted social objectives as well, including consulting and ensuring participation from river communities. The goal is to take advantage of local knowledge of river processes, and acknowledge the historical and cultural importance of the river (Scanlon 2002:11–12).

The Mekong River Commission has also, at least in principle, recognized the importance of ecological concerns and the need to incorporate an environmental flow regime to maintain the river's enormous productivity. The Mekong basin is one of the most biologically diverse areas in the world and a major source of food and basic livelihood for 65 million people. Unfortunately, weak enforcement mechanisms and incomplete basin-wide membership keep the Commission from meeting its environmental goals (WRI 2000:206–209).

River basin organizations also have potential roles in conflict resolution, acting as catalysts for wider cooperation between countries (McNally and Tognetti 2002:16). The International Commission for the Protection of the Danube (ICPDR) has done just that. It has facilitated cooperation among Danube basin countries, lessened the division between Western and Eastern Europe in a post-Cold War political climate, and strengthened democratic institutions in the former communist bloc. The ICPDR sprang from the adoption by basin countries in 1994 of the Danube River Protection Convention, an acknowledgment of the river's importance to the region and its poor condition (McNally and Tognetti 2002:21).

Elements of RBO Success

Why are the mandates of some river basin organizations implemented more successfully than others? And what is it that keeps some RBOs from being champions of ecosystem-level governance? First, the levels of authority that governments grant to RBOs are obviously critical to their abilities to manage their respective river basins. The most successful RBOs have strong bases of support among basin governments, and high levels of authority through formal instruments like legislation. The success of the Murray-Darling Basin Commission, for example, can in large part be attributed to its ministerial authority, specific federal legislation supporting its operation, and united political backing. On the other hand, the absence of formal and binding provisions weakens the operational capacity of many international RBOs, such as the Mekong River Commission, which has no enforceable authority. Even the decisions taken by the International Commission for the Protection of the Rhine are not legally binding, though member nations generally act in good faith.

A second critical factor is the level of cooperation among members of the river basin organization. Great political and economic diversity among basin nations can cause mismatches in goals and make basin-wide decision-making difficult. An unequal balance of power between basin nations and disparate political and cultural heritages can also make it harder for an RBO to carry out its mission. For example, the Mekong River Commission (MRC) member states have diverse political agendas that have divided the basin (WRI 2000:208–209). Experience shows that when divisions among basin countries are likely to be a major obstacle, appointment of a neutral and independent chairperson to the commission can facilitate decision-making, as can the use of a technical advisory group to offer impartial expert advice (Pittock 2003).

Specific and achievable measures to implement basin-wide goals are a third important factor in the success of RBOs. Such specific measures exist in the case of the Murray-Darling Basin Commission, including a cap on water diversions and the establishment of a water market (Scanlon 2002:5). The result has been more efficient public water use as farmers are required to comply with set limits (McNally and Tognetti 2002:19).

Finally, it is becoming increasingly evident that river basin management requires strengthened mechanisms for transparency, public participation, and accountability to ensure that local concerns are incorporated into transboundary decision-making. The absence of such mechanisms may lead to inflexible or unenforceable basin-wide decisions that fail to engender local support or draw on local knowledge. The Murray-Darling Basin Commission has established channels for public participation, including an 18-month public consultation with river communities on three different plans for ensuring environmental flows in the river. A recent survey found that 95 percent of stakeholders surveyed supported the principle of returning more water to the river for environmental purposes, but that support dropped to less than 40 percent if the community was not actively brought into the decision-making process (Scanlon 2002:12).

Other RBOs have embraced the idea of public participation as well. In North Africa, the Nile Basin Initiative, which involves ten nations in the Nile basin, has incorporated openness and public participation into its discussions of the allocation of the Nile's water, a politically charged topic (Bruch 2001:11392–11393). Unfortunately, while requirements for openness and public participation are increasingly common in the mandates of RBOs, the steps to achieve these goals remain ill-defined, and public participation is still lacking in most cases (Milich and Varady 1998:37).

for protecting human, plant, or animal life, or to promote the conservation of natural resources. But in all cases, these exceptions to normal trade practices are narrowly interpreted, and subject to many conditions. In other words, environmental exceptions must pass high standards should disputes arise (Sampson 2002:6–7; Brack 2004). In effect, this gives the WTO considerable power to influence environmental policy, even if that is not the WTO's intent.

Environmental Treaties and Trade

Another source of potential conflict involves the ambiguous relationship between trade rules and environmental treaties. Over 30 environmental treaties place some type of restriction on international trade, mostly as enforcement mechanisms (Brack 2000:3). The Convention on International Trade in Endangered Species (CITES), for example, is intended to interrupt harmful trade in species. It requires export permits for all trade in endangered species, and can level trade sanctions on countries that don't comply. Indeed, as of 2000, CITES had applied trade bans in 17 cases with good results: All the offending countries returned to compliance (Brack 2000:8).

Although only a small proportion of treaties contain such trade measures, those that do may have significant effects on international trade flows (UNEP and IISD 2000:16). The point of these measures is precisely to discriminate between countries on the basis of their environmental performance. That, at least on its face, violates WTO principles (Brack 2000:13). However, environmental treaties are legally binding multilateral agreements in their own right, so it is not clear which regime should prevail in a dispute. In fact, no dispute over an environmental treaty has yet been brought before the WTO, but threats have been made, particularly against CITES (Brack 2000:3, 14).

Because of this uncertainty, many NGOs and governments suggested that nations at the World Summit on Sustainable Development should give a clear signal that WTO rules should not take precedence over environmental treaties if disputes arise. But governments were reluctant to send such a signal. In fact, a proposal was tabled that would have had the opposite effect–weakening environmental agreements by subordinating them to WTO commitments (Khor 2002). In the end, the conference adjourned with no resolution of the matter, although the wording of the Summit's final document specifically avoids subordinating environmental treaties to WTO rules.

Greening Trade: Opportunities in the Doha Trade Round

A potential start on greening global trade rules may come from the WTO's current negotiating round, called the Doha Round, which was launched in 2001 in Doha, Qatar. At the meeting, member nations provided some significant openings to address crucial trade and environment issues. In fact, the statement released by WTO member countries–the Doha Ministerial Declaration–is striking in its language on sustainable development and environmental protection:

> "We strongly reaffirm our commitment to the objective of sustainable development... We are convinced that the aims of upholding and safeguarding an open and non-discriminatory multilateral trading system, and acting for the protection of the environment and the promotion of sustainable development can and must be mutually supportive" (WTO 2001a).

To make good on this commitment, the Doha Declaration established a new, though limited, mandate for negotiations on the trade-environment nexus. WTO members agreed to address the relationship between WTO rules and environmental treaties that contain trade measures. This includes

Examples of Trade Measures in Environmental Treaties

The Basel Convention: Parties are prohibited from exporting hazardous wastes to other parties unless the receiving party has not banned such import and gives its written consent. Parties are also obliged to prevent the import or export of such wastes if there is reason to believe that the wastes will not be treated in an environmentally sound manner at their destination.

CITES: The Convention bans commercial international trade of endangered species included in an agreed list. Trade in other species that might become endangered is also regulated and monitored. Trade sanctions can be applied to parties found in violation.

The Montreal Protocol: This agreement prohibits trade in identified ozone-depleting substances between parties and non-parties. The Protocol also has the ability to enforce trade sanctions against parties and non-parties who do not comply.

The Convention on the Prior Informed Consent Principle of Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam PIC Convention): Parties are allowed to decide, based on an agreed list of chemicals and pesticides, which substances they cannot manage safely and, therefore, will not import. When trade does occur, labeling and information requirements must be met.

The Cartagena Protocol on Biosafety: This recent agreement allows parties to restrict the import of some living genetically modified organisms unless Advanced Information Agreement (AIA) procedures laid down in the Protocol are fulfilled.

Source: UNEP and IISD 2000:16–17.

the issue of whether secretariats from environmental treaties such as the Convention on Biological Diversity, which is greatly affected by trade rules, can be granted "observer status" at WTO proceedings–a step that would give them non-voting voices in WTO deliberations (Régnier 2001:3–5).

Another important area for negotiation is the topic of reducing environmentally harmful subsidies, such as agriculture and fisheries subsidies. This is a possible point of convergence for trade and environmental regimes, since both consider such subsidies harmful (Régnier 2001:3–4). While agricultural subsidies have been a major concern in previous trade talks, the decision to include fisheries subsidies was seen by NGOs as a sign that negotiations might break important new ground. For years, environmental groups have advanced the case that fisheries subsidies are a root cause of overfishing and destructive fishing practices (WWF 2002:1, 3).

With these decisions, the WTO has clearly come to recognize the importance of dealing with trade and environment linkages and the special challenges they pose. However, it has also laid down very narrow parameters for what can be negotiated. The ministerial conference made it clear that the outcome of these negotiations on trade and environment had to remain "compatible with the open and non-discriminatory nature of the multilateral trading system," and that they must not "add to or diminish the rights and obligations of members under existing WTO agreements" (WTO 2001a). How much latitude this gives for real progress is not yet clear.

A Need for Greater Transparency

There is no certainty that the results of the WTO negotiations on the environment will be positive. Already, there is skepticism about whether they will truly benefit the poor and result in outcomes consistent with sustainable development (La Viña & Yu 2002:13; Malhotra 2002). While much depends on the political will and sincerity of governments, the role of civil society in ensuring good outcomes should not be underestimated. Many NGOs are active in WTO processes as activists, analysts, and protesters. In Doha, 365 NGOs attended the meeting–an impressive number, given that it took place shortly after the September 11th attacks, and security arrangements and travel were difficult (WTO 2001b).

In spite of the official NGO presence in Doha, WTO's record of transparency and openness to civil society input are not sterling. While the organization gets high marks for making its decisions and official documents publicly available online and in multiple languages, it does not score as well in receptiveness to civil society participation. In fact, much of its business continues to take place in informal sessions, announced only to those who are invited, and usually generating no written record of discussion (Maurer et al. 2003:13). With the Doha negotiations now accelerating, this mode of doing business is once again becoming a matter of active protest (Focus on the Global South 2003) (see Box 7.3).

Investing in the Environment?

The international system of investment and finance provides the capital that fuels global development. It includes the activities of both the private sector and multilateral funders such as the World Bank. It also includes the norms that govern international finance, the policies imposed on national governments by the International Monetary Fund, and the investment rules negotiated as part of trade agreements.

Because this system controls the global purse strings, its activity bears on the environment at many points, from funding specific projects–such as roads or manufacturing plants, which can have very negative environmental impacts–to shaping national economies and the way they are integrated into the global economy.

For this reason, mainstreaming environmental thinking into the institutions and rules that govern investment and finance is vital to the success of the international environmental regime. How well is the global finance regime doing in integrating environmental concerns?

International Rules Governing Investment

There is no single global treaty that governs international financial flows. But myriad bilateral, regional, and multilateral investment agreements serve to facilitate foreign investment, principally by reducing the risks faced by investors (Werksman et al. 2001:5). As with the global system of trade rules, international investment rules have developed without reference to their environmental consequences. This gives rise to several concerns about how investment rules could undermine environmental management regimes at both global and national levels.

One major concern is that international investment rules could conflict with important provisions of international environmental agreements. For example, under the Kyoto Protocol, a "Clean Development Mechanism" is envisioned to award emissions credits toward industrialized countries' emission reduction targets in exchange for climate-friendly investments in developing countries. However, such a mechanism could run afoul of investment rules by limiting the countries eligible to participate or the kinds of projects eligible for credits (Werksman et al. 2001:1–4).

Another major concern is that strengthening the rights of foreign investors can come at the expense of national-level environmental protection. NAFTA's Chapter 11 illustrates this problem. Chapter 11 is designed to protect the interests of foreign investors in the three NAFTA countries–Canada, the United States, and Mexico–from trade barriers that governments may erect in the form of laws or regulations.

Unfortunately, many of these "barriers" have been environmental laws meant to maintain clean drinking water, control the use of carcinogenic substances, and manage hazardous wastes such as PCBs (IISD and WWF 2001:15). Disputes under Chapter 11 are decided by an arbitration

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Box 7.3: Trading Away Public Participation?

With both environmental problems and trade increasing in recent years, civil society has questioned whether the decisions made by institutions that influence international commerce are transparent—or whether they are secretive and undertaken in relative isolation from environmental and social concerns. Two trade regimes, the World Trade Organization (WTO) and the North American Free Trade Agreement (NAFTA), have been primary targets of civil society criticism. Although many of the rules they negotiate and the disputes they settle significantly affect the environment, public interest groups have found only limited opportunity to introduce environmental and other public interest concerns in their negotiations and dispute settlement processes.

To gauge the openness and accountability of trade and economic institutions to civil society input today, World Resources Institute (WRI) assessed a sample of five: The WTO, NAFTA, the Association of Southeast Asian Nations (ASEAN), the European Union (EU), and the East African Community (EAC). This selection includes international and regional bodies that deal with trade rules and negotiations. It also reflects diversity in age, with some well-established insti-

Transparency in Five Trade and Economic Institutions

How Open to Public Scrutiny and Involvement Are the Negotiations of these Trade and Economic Institutions?	World Trade Organization	North American Free Trade Agreement	Association of Southeast Asian Nations	European Union	East African Community
Does the institution post dates and locations of upcoming negotiations/meetings on its official website or publish them in another form more than three months in advance?	Yes	No	Yes	Yes	No
Does the institution post work programs or agendas for upcoming negotiations/ meetings on its website, or publish them in another form?	Yes	No	No	Yes	No
Are the institution's articles of constitution available on the web or published in another form?	Yes	Yes	Yes	Yes	Yes
Are decisions or agreements taken by members posted on the web or published in another form?	Yes	Yes	Yes	Yes	No
Are negotiation processes presumed to be non-confidential unless agreed to by members, according to official documents?	No	No	No	Yes	No
Do institutional statements explicitly recognize the need for or relevance of public participation in their decision-making processes?	Yes	No	No	Yes	Yes
Do institutional documents and/or policies state that the institution seeks expert and technical advice from civil society groups/representatives?	No	No	Yes	Yes	No
Do institutional documents and/or policies include examples of institutional collaborations or partnerships with civil society to accomplish specific objectives?	No	Yes	Yes	Yes	No
Does an environmental unit/office specify how it incorporates public participation in its work?	No	Yes	No	Yes	No
Does the institution have a dispute resolution mechanism or court that settles cases of non-compliance with agreements or violation of rules?	Yes	Yes	Yes	Yes	Yes
Does the Secretariat publish or post on its official website a list of cases or petitions before the mechanism/court?	Yes	Yes	No	No	No
Does the Secretariat publish or post on its official website decisions or outcomes of individual disputes/cases?	Yes	Yes	No	Yes	No
Can citizens or individuals submit information to the institution's dispute resolution mechanism about member non-compliance with an agreement?	No	No	No	Yes	Yes

Source: Adapted from Maurer et al. 2003: 14-15

tutions like the EU, but also newer bodies like the East African Community, which was established in 2000 to create a common market among the countries of Tanzania, Kenya, and Uganda.

Specifically, WRI looked at the public's access to information about the negotiations undertaken by these institutions, access to opportunities to participate in negotiation processes, and access to redress (see Table).

Findings

Most of the economic and trade bodies surveyed are providing the public with general information about their negotiations. With the exception of the East African Community, all make available the decisions or agreements of their members on the Internet, and all post their articles of constitution on the web. However, timely disclosure of information on upcoming negotiations—such as dates, locations, and proposed agendas—is less consistent. For example, the WTO posts such information, but often too late for civil society to follow negotiations in real time.

Most of the institutions surveyed are codifying their information disclosure policies. Among the five, the EU makes the most extensive commitments to public information disclosure. The WTO has instituted disclosure policies similar to the EU, but with caveats, like restrictions on access to documents for six months or longer after production. NAFTA and ASEAN have less extensive rules for information disclosure, and the EAC has articulated few if any rules or policies on information disclosure.

Unfortunately, while disclosure of general information is improving, confidentiality of negotiations remains the norm. Only the EU presumes that most negotiations and deliberations are non-confidential unless otherwise established by members. The other institutions either keep deliberations confidential or have no clear confidentiality rules. A related problem is that a significant portion of the institutions' business takes place in informal sessions. These sessions are announced only to those who are invited, and they typically generate no written record of discussion. Nevertheless, real decisions take place in this informal context, leaving at a disadvantage not only civil society, but also countries that will be bound by decisions reached in forums to which they were not invited.

In the area of public participation, the strongest articulation of norms is found in the European Union. It recognizes the importance of public participation in its own decision-making processes, commits to consulting and exchanging information with civil society, and incorporates public participation procedures in its environmental departments and policies. Other institutions typically acknowledge the relevance of public participation, but do not formally integrate public participation into internal deliberations. For example, WTO documents and policies include general statements about the relevance of public participation, information exchange, and consultation, but limit participation to informal dialogues with NGOs. Some of those dialogues, like the WTO's public symposiums, have been discounted by civil society as public relations exercises with no impact on real decision-making.

None of the economic agreements or institutions reviewed requires its members to seek the input of domestic constituencies on agenda items or substantive issues on the docket for meetings or negotiations. In response, many civil society networks in industrialized countries routinely press their negotiators or representatives to listen to their views. The protests against the WTO ministerial meeting in Seattle in 1999 are a case in point. By contrast, civil society groups in developing countries, like their own governments, have less access to the human and financial resources that are needed to track and informally influence trade and economic policy negotiations. As a result, these groups are at least partially disenfranchised from international economic decision-making.

The five institutions surveyed present a similarly mixed-to-poor record of offering intergovernmental organizations and third parties the opportunity to intervene in or observe dispute settlements. All five institutions have created dispute resolution mechanisms such as official consultation and mediation processes. In addition, the European Court of Justice and the WTO's Dispute Settlement Body publicly disclose cases pending and rulings handed down. However, deliberations in the European Court of Justice remain confidential; similarly, NAFTA's dispute settlement and panel review procedures are confidential unless the parties involved agree to entertain third party submissions. ASEAN's dispute mechanism is the least transparent.

Few systems give much weight or opportunity to NGOs or non-parties that want to submit briefs or opinions to a court or out-of-court consultation. Only the European Court of Justice and EAC officially permit such submissions, and only the EAC posts them on its website. Also troubling is the trend at the WTO of accepting NGO or nonmember submissions while maintaining the Dispute Settlement Body's discretionary authority to ignore them—perhaps indicative that these submissions bring no real benefit or power to the submitting parties.

Source: Adapted from Maurer et al. 2003.

tribunal, and substantial monetary judgments have been awarded. For example, in October 2002, the NAFTA dispute panel awarded $6 million (Canadian dollars) to U.S. investor S.D. Myers, who had sued over a Canadian law banning exports of PCB waste (ICTSD 2002).

The most serious fallout from Chapter 11 far exceeds the actual disputes. It is the chilling effect that such judgments have on the enactment and enforcement of robust environmental laws with implications for foreign investors. Faced with potential suits, local and national policy-makers are reluctant to pass legislation that might be construed as "anti-investor." Critics complain that such effects make NAFTA's environmental language meaningless and undermine national, state, and local sovereignty (Public Citizen and FOE 2001:vii).

In 1998, similar concerns contributed to the collapse of negotiations on a proposed Multilateral Agreement on Investment (MAI). Initiated within the Organisation for Economic Co-operation and Development (OECD), the proposed MAI would have strengthened investor rights significantly compared to existing agreements. Negotiations foundered on substantive disagreements among countries, notably on provisions for environmental and social standards. They were also the target of a global campaign by NGOs opposed to unfettered economic globalization (UNCTAD 1999:5–25; Henderson 1999:38–53).

Nevertheless, there is concern that provisions similar to those in NAFTA's Chapter 11 will be incorporated into other trade agreements now in negotiation, such as the Free Trade of the Americas Agreement (FTAA), currently under discussion by 31 Latin American and Caribbean nations. This proposed trade pact includes an ambitious proposal to extend Chapter 11-type protections to the rest of the western hemisphere (Public Citizen and FOE 2001:i). Such investor protections would be unprecedented in an international trade agreement, and could greatly widen Chapter 11's chilling effect on environmental laws.

A similar debate is happening in the World Trade Organization. In its 2001 ministerial meeting in Doha, Qatar, the WTO agreed to consider new areas in which trade rules could be applied, including the relationship between trade and investment–a warning bell for many environmentalists (WTO 2001a).

Private Sector Investment

By far the greatest share of international finance flows through private channels. These include the foreign direct investment of multinational corporations, the stocks and bonds traded by international brokers, and the loans made by commercial banks. Other sources are contributions made through international charities and remittances sent home by foreign workers. Total outbound private investment flows from the United States–mostly to other industrialized countries–were estimated at more than $365 billion in 2001 (U.S. Dept. of Commerce 2003). But data on the size and composition of these flows–which fluctuate significantly from year to year–is poor.

Nevertheless, it is clear that these financial flows have significant implications for environmental sustainability and social equity, in terms of both the ecological footprints of specific investments and the development trends they reinforce. Some impacts are clearly negative. For example, international finance of a coal-fired power plant will result in local air pollution and greenhouse gas emissions, as well as lock in a fossil fuel-based energy strategy for a generation. Other effects can be positive: For example, the environmental performance of a manufacturing facility acquired by a multinational corporation could be improved by installing cleaner technology (Seymour et al. 2002:175).

Ideally, the integration of environmental considerations into private international financial flows should be governed at the national level in countries where the investments are made. Sectoral policy frameworks–blueprints for how different economic sectors should be developed–can provide incentives for more environmentally friendly investments, while regulatory frameworks can ensure disclosure of information and public consultation prior to approval of specific projects. Unfortunately, however, the steep rise in international financial flows has outpaced the ability of many countries to put such policy and regulatory frameworks in place, and some would argue that governments' desire to attract investment has even retarded efforts to develop and enforce such frameworks (Zarsky 1997). In addition, many international investments affect transboundary or global ecosystems for which governance regimes are not yet in place.

As described in chapter six, several multinational corporations have voluntarily begun to track and report on the environmental implications of their businesses. Private international financial institutions have only recently begun to consider the environmental impacts of their investments or their accountability to stakeholders other than corporate shareholders. Most private financial transactions are not public, and information is available only through proprietary databases. Information on the environmental character of lending and investment practices is even harder to come by.

However, several international commercial banks have recently launched an initiative to promote better environmental practices in the industry. Ten banks–including ABN Amro Bank, Barclays, Citigroup, West LB, and Credit Suisse First Boston–have drafted environmental criteria to guide future investments. These so-called "Equator Principles" are based on the environmental safeguard standards of the World Bank's International Finance Corporation (The Equator Principles 2003). The banks involved in the initiative provided over $9 billion in loans for infrastructure projects in 2002. If the bulk of the international banking community follows suit and agrees to abide by such criteria, it could have a significant effect on both the environmental character of the banks' port-

Better governance means greater participation, coupled with accountability. Therefore, the international public domain—including the United Nations—must be opened up further to the participation of the many actors whose contributions are essential to managing the path of globalization. Depending on the issues at hand, this may include civil society organizations, the private sector, parliamentarians, local authorities, scientific associations, educational institutions and many others.

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folios and on the ability of affected communities to have a say in the activities they finance (Phillips and Pacelle 2003:A1).

Regulations governing capital markets could go beyond such voluntary initiatives to render private international financial flows more transparent and accountable. For example, the Securities and Exchange Commission in the United States currently requires publicly traded corporations to disclose environmental legal proceedings pending against them. However, this regulation is seldom enforced domestically, much less against the international operations of U.S. firms or foreign firms listed in the United States (Seymour et al. 2002:194). A requirement that multinational corporations disclose their environmental liabilities worldwide would empower shareholder activists to promote the corporate responsibility of individual companies in the short run, and would harness markets to reward companies with superior environmental performance in the long run.

Public Sector Finance

The absolute volume of funds channeled through public international financial institutions, such as bilateral aid agencies and multilateral development banks, is dwarfed by private flows—by a factor of almost seven to one in 2000 (World Bank 2002b:32). Nonetheless, the potential of these public financiers to influence the character of private investment is significant. For example, the majority of loans for large infrastructure projects in developing countries are guaranteed by the export credit and investment promotion agencies of industrialized countries, such as the Overseas Private Investment Corporation in the United States (Seymour et al. 2002:177).

Multilateral development banks also leverage private resources by providing co-financing and loan guarantees to specific projects, and are able to impose their own environmental assessment, information disclosure, and public consultation practices on those projects. These environmental standards and procedures often serve as de facto international standards. For example, the Equator Principles mentioned above were based on the standards of the World Bank's International Finance Corporation.

In addition, multilateral development banks—often in collaboration with the International Monetary Fund (IMF)—exercise influence over the national policies of countries through structural and sectoral adjustment loans (see Box 2.2). Usually, conditions attached to such loans encourage governments to open their economies to foreign investment in the belief that this promotes economic growth and reduces poverty. Questions about the validity of this belief were amplified in the aftermath of the Asian financial crisis in 1997–98. In addition to opening the door to investors, Asian countries had relaxed their control over the flow of money in and out of their countries, making their currencies vulnerable to the whims of international markets. With the onset of the crisis, currencies crashed almost overnight, devastating economies and swelling the ranks of the poor.

Consequences for the environment included increased pressure on forests and other open access resources as people thrown out of work sought other sources of income. The World Bank and the IMF urged increased openness to foreign investment as a way out of the crisis, even in environmentally sensitive sectors. In Indonesia, for example, conditions attached to the IMF bail-out package included liberalization of investment in palm oil plantations, an important driver of deforestation (Seymour and Dubash 2000:90, 94).

Overall, recent progress in integrating environmental sustainability and public participation into the operations of public international financial institutions has been positive, but slow. Multilateral development banks are gradually putting into place policies that expand information disclosure, mandate environmental assessment and public consultation, and provide mechanisms for accountability at the level of specific project investments (Maurer et al. 2003:4–8).

Less progress has been made in ensuring consistent implementation of such policies, and in mainstreaming environmental considerations into all policy and lending decisions. For example, in a recent progress report on its efforts to implement an organization-wide environment strategy, the World Bank found that integrating the environment into poverty reduction strategies and structural adjustment loans were areas of continuing weakness (World Bank 2002:3).

Bilateral export credit and guarantee agencies (ECAs), which leverage hundreds of billions of trade and investment dollars annually, lag far behind multilateral development banks in integrating environmental concerns and public participation into their decision-making. A few such agencies–notably the U.S. Export-Import Bank and the Overseas Private Investment Corporation–require large projects to undergo environmental assessments, release the results of these assessments to the public, and disclose what projects and companies benefit from their financing. But most such agencies promote the commercial interests of domestic industry unfettered by public scrutiny or requirements to consider the environmental impacts of their investments. For example, Hermes, the German export credit agency, only requires environmental assessments if they are legally mandated by the country where the project is located. Hermes does not release the results of these assessments, and provides no information to the public on specific projects that it finances (Maurer 2002:9).

In 1999, the governments of industrialized countries agreed to negotiate common environmental guidelines for projects financed by ECAs. However, these negotiations have failed to achieve consensus on the standards to be used in environmental assessments or the information that should be disclosed to the public and affected communities (Maurer 2002:16–19).

New Players, More Inclusive Processes

As the challenges of international environmental governance have become clearer, and the inability of governments to fully meet these challenges more apparent, a variety of new actors and new approaches have come into play. The expanded role of civil society in international governance processes is probably the most visible aspect of this. Whether in high-profile summits or in conferences of the parties of environmental treaties, civil society attendance and participation has increased in volume and diversity. This expansion, in turn, has resulted in the emergence of officially sanctioned "multi-stakeholder processes." These forums are built around the idea of bringing all parties into the deliberation process in order to achieve real exchange between governments and civil society. Greater civil society involvement has also spawned many government-NGO and public-private partnerships. Such partnerships have become a significant new outlet for addressing environmental concerns and defining sustainable development.

But have these new developments really made a difference? Is civil society participation limited to mere attendance and observation of meetings, or is it truly substantive? Do multi-stakeholder processes address issues that governments care about, and do governments take heed of what they hear? Will partnerships supplant legal commitments by governments, and let them off the hook? Do partnerships open the door for vested economic interests to unduly influence governments and intergovernmental processes? Are the decisions that emerge really better–socially and environmentally–because of these innovations?

Expansion and Effectiveness of Civil Society Participation

Civil society's attendance records at the landmark environmental and sustainable development events of the last thirty years–the 1972 Stockholm Conference on the Human Environment, the 1992 Earth Summit in Rio, and the 2002 World Summit on Sustainable Development in Johannesburg–show how dramatically civil society participation has grown. Only 134 NGOs were accredited to participate in Stockholm, but by Johannesburg, the number had risen to nearly 3,000 organizations (see Figure 7.2), with some 8,000 individuals from these groups attending (Haas et al. 1992:32; DESA 2002; Willetts 2002).

The involvement of civil society groups has not been limited to these big UN summits. It is also a phenomenon in the major meetings convened under the various multilateral environmental agreements such as the Framework Convention on Climate Change (UNFCCC) and the Convention on Biological Diversity.

Diversity of civil society representation in governance processes has also been expanding steadily. In the 1980s and early 1990s, most nongovernmental actors participating in global environmental processes came from the North and usually represented large environmental groups, such as the World Wide Fund for Nature or Friends of the Earth. In Stockholm, only 10 percent of registered NGOs came from developing countries. By the Rio Earth Summit, that had risen to about one third (Haas et al. 1992:32). By 2002, at least 40 percent of NGOs that registered for the various preparatory conferences leading to the WSSD were from developing countries (CSD 2003b). This rise in the participation of developing country NGOs is also reflected in MEA processes.

The composition and range of NGOs participating in global environmental processes have also changed, with more development and poverty NGOs, as well as business and industry groups, in attendance. Human rights organizations, including those advocating for the interests of indigenous peoples and women, have also increased their participation in these processes.

Of course, greater volume and diversity of NGO representation only go so far. It is what these representatives do that matters. Civil society participation ranges from mere attendance to actual involvement in the negotiations governments are engaged in. This can come either directly, by membership in a national delegation, or indirectly, by active lobbying of delegations on specific issues.

It is difficult to assess the success of civil society in influencing the outcomes of global environmental processes. Certainly, civil society groups have played effective roles in developing and disseminating scientific information that has catalyzed many environmental treaties. For example, NGO scientists helped develop the scientific basis for our present

"The United Nations once dealt only with governments. By now we know that peace and prosperity cannot be achieved without partnerships involving governments, international organizations, the business community and civil society. In today's world, we depend on each other."

UN Secretary-General Kofi Annan

understanding of climate change and the global biodiversity crisis. Experts from civil society organizations routinely participate in the work of the Intergovernmental Panel on Climate Change, which keeps parties to the Kyoto Protocol updated on the latest climate change science. Likewise, the Convention on Biological Diversity is partially a result of many years of work by IUCN, which includes among its members a broad group of nongovernmental conservation organizations.

Civil society organizations have also been instrumental in putting forward new ideas and in lobbying for concrete actions by governments. The concept of addressing climate change by setting targets and timetables for reducing greenhouse gas emissions–an idea now incorporated in the Kyoto Protocol–can be traced to the so-called "Toronto Targets" pushed by key environmental organizations in the late 1980s and early 1990s (Grubb et al. 1999:53; Victor 2001:14). The input of NGOs in the negotiation of the Aarhus Convention was certainly a crucial element in its eventual adoption (Petkova and Veit 2000:5). As early as the first conference of the parties to the Convention on Biological Diversity in 1995, NGOs lobbied strongly for the adoption of a Biosafety Protocol to address issues around the safe use of genetically modified organisms; they participated extensively in the negotiations that resulted in its adoption in 2000 (Gale 2002:251, 258–261).

What is unclear, however, is the extent to which NGOs are able to influence specific policy decisions–what rule or target to adopt, for example–that governments make as they deal with the complexities of global environmental issues. In this area, the record is at best mixed. There have been successes, but there have also been significant failures. Many NGOs welcomed the adoption of the Kyoto Protocol, for example, even as they decried the failure of governments to adopt more stringent targets and timetables (La Viña 2003).

In assessing the effectiveness of civil society participation in global environmental processes, it is also important to consider whether alternative NGO summits, such as the Global Forum in Rio and the Global People's Forum in Johannesburg, are a viable tool. These events, held in parallel to official intergovernmental meetings, have become a focus of much civil society activity. To the extent that such gatherings facilitate networking and coalition-building among groups and act as vehicles for reflection and dialogue, they may be extremely useful. But as a strategy to influence governments, they may not be cost-effective and have not compiled a good record.

Are Multi-Stakeholder Processes Useful?

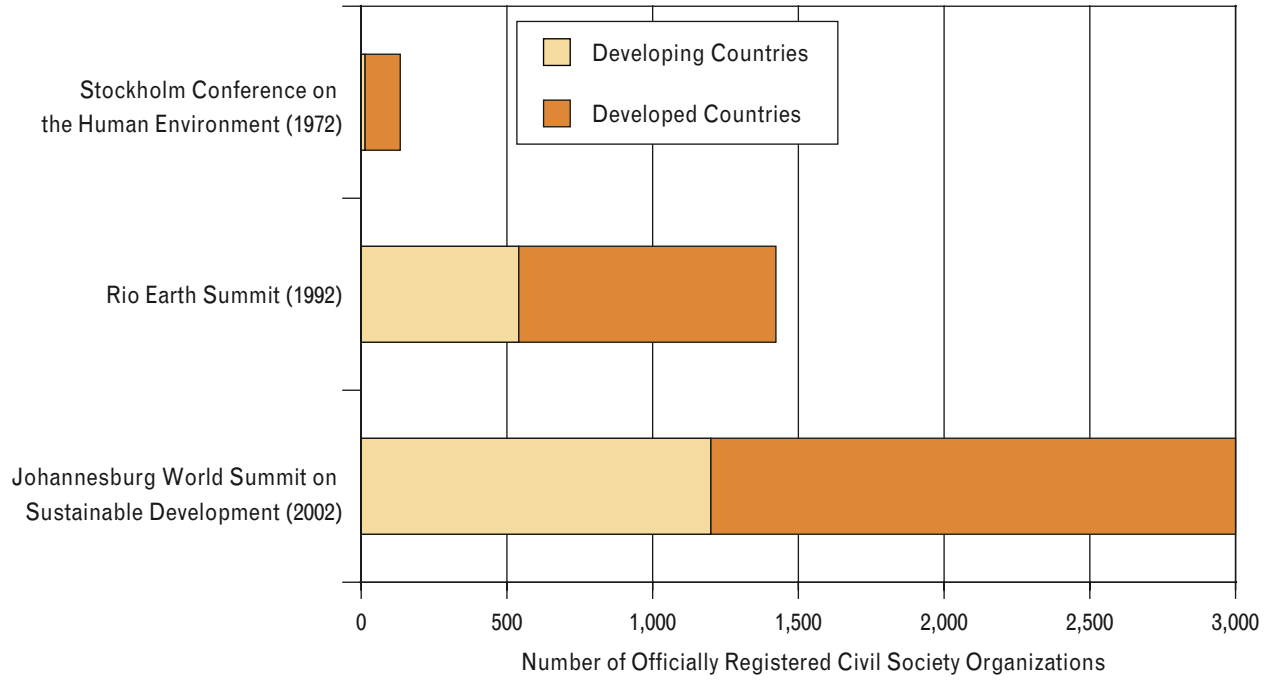
One response to the rise of civil society activism in environmental governance has been to organize and, as in the case of the Commission on Sustainable Development (CSD), to institutionalize multi-stakeholder processes (MSPs). In the context of international environmental governance, MSPs are designed explicitly to enable direct and meaningful interactions between governments and civil society stakeholders on specific topics. In the CSD and in meetings of multilateral environmental agreements like the Convention on Biological Diversity, MSPs are considered official parts of the intergovernmental process and are usually integrated into official meeting agendas. They provide opportunities for stakeholders to articulate their concerns, present proposals on the issues at hand, and discuss them in detail with governments. As a result, governments can become better informed and improve the quality of their decisions.

However, MSPs have not been popular with all stakeholders. Some governments and NGOs are skeptical about their usefulness. In the Commission on Sustainable Development, for example, some civil society groups continue to encounter official objections from governments to their meaningful inclusion in official forums. In addition, some NGOs are concerned that the prominent place given to businesses in MSPs could erode the role of governments in decision-making and enhance the influence of the private sector, which is not accountable to the public the way governments are (Dodds 2001a:37–38).

There are also concerns about how stakeholder representatives are selected. Who decides which groups will sit at the table, and how are their negotiating positions decided? But in the end, NGOs are most concerned about whether investing in MSPs is worth the effort. Do MSPs make a difference in decision-making?

The answer depends, of course, on how they are conducted. Some MSPs do seem to succeed. One example that is frequently put forward is the World Commission on Dams (see Box 7.4). But others are less fruitful. Suggestions put forward to improve the chances of success include formulating rules to govern the selection of participants. The use of an independent facilitator is also an option, so that MSPs can become more than mere venues for prepared speeches and instead engender genuine dialogue. Finally, accountability mechanisms to ensure that governments actually

Figure 7.2: Civil Society Participation in Environmental Summits



Source: Haas et al. 1992:32; United Nations 1992; 2002a; 2002b; ECOSOC 2002; Willetts 2002; WRI calculations

incorporate the outcomes of these dialogues in their decisions would improve the credibility of and justify participation in MSPs.

The Emergence of Partnerships

In recent years, partnerships–public-private initiatives, as well as coalitions of international organizations, governments, and NGOs–have become a favored UN strategy to motivate concrete action on many environmental problems. Partnerships are voluntary and self-organized. They are not formally negotiated and thus do not require universal consensus. Those directly involved willingly commit to take concrete steps and implement specific programs that define the partnership.

Partnerships range from simple agreements to exchange information to initiatives that plan and fund infrastructure projects, education programs, or scientific studies. Since 2002, partnerships have been elevated to a new, though still legally undefined, status. Much of this new attention was inspired by the prominent role partnerships played at the World Summit on Sustainable Development (WSSD). Governments considered the new partnerships announced in Johannesburg an important outcome of the Summit–essential to fulfilling the promises they made in the WSSD Plan of Implementation, the Summit's final list of agreed actions and intentions. On its website, the CSD Secretariat has posted a list of over 260 partnerships that relate to the commitments contained in the implementation plan (CSD 2003b). They include partnerships like the Water, Sanitation, and Hygiene for All Initiative, the Sustainable Agriculture and Development Partnership Initiative, and the Partnership for Principle 10, which aims to increase citizen access to environmental information, participation, and legal redress (see Box 9.1).

While many have welcomed the partnerships that emerged from WSSD, others have been more cautious in their endorsement. Some critics complain that these liaisons have been formed without any overall coordination, and that many reflect efforts already underway rather than new thinking or new resources. Participation is also uneven among nations, and some worry that the WSSD partnerships mirror the same disparities in power and priorities that have dominated international relations over the past decade (Andonova and Levy 2003).

Beyond the WSSD, the emergence of partnerships on the global scene has engendered a serious debate about their promise and implications for governments. Partnerships are controversial because of the apprehension that they could come to substitute for governmental commitments, allowing governments to abdicate responsibilities that are more properly functions of the state. Some fear that the acceptance of partnerships might herald a transition from traditional multilateral diplomacy to a voluntary approach to implementation, essentially letting governments off the hook. In this sense, they are seen as signs of the failure of diplomacy (CSD 2002).

Another major concern is that, without proper transparency and accountability, partnerships might become vehi-

cles for the infusion of inappropriate corporate money and influence into the United Nations. Some see a danger that private interests might become able to exert influence over the public sector, for example by promoting privatization (Utting 2001:1–2). Partnerships could also serve as "greenwash," to be used by companies to establish credibility even if little is achieved.

While there is legitimacy to some of these concerns, partnerships–when properly designed and implemented, and accompanied by a legally binding framework for corporate responsibility and accountability–can be powerful vehicles for sustainable development. They must, however, be based on clear criteria, with well-elaborated lists of goals to be achieved, specific commitments by partners to attain them, and financial resources committed to fund them. A transparent and inclusive approach to developing partnerships, including obtaining buy-in by those communities intended to benefit, is essential. Finally, monitoring and accountability mechanisms must be put in place to document achievements and areas for improvement and to ensure that partners make good on their pledges.

Principles to Guide International Governance Reform

As this chapter has shown, many steps can–and must–be taken to improve the institutional framework for international environmental governance and mobilize new partners and practices for attaining global environmental goals. Two principles should guide the reform of international environmental governance in general. First, environmental objectives can only be met if they are compatible with the broader goals of sustainable development, and especially with the overriding aim of eradicating or reducing poverty worldwide. Second, any reform efforts should be guided by the principles of The Rio Declaration–in particular, the *common but differentiated responsibility principle* and the *precautionary approach.*

The Poverty-Environment-Governance Nexus

Progress in solving environmental problems can only be made if strategies to combat them are consistent with a priority objective of the international community and most countries: The eradication of poverty. Environmental policy must be integrated into and coordinated with development policy if it is to be effective. This is true at the local and national levels, and it is also appropriate for responding to global environmental challenges like climate change, biodiversity loss, and desertification.

The political motivation for this posture is that dealing with poverty is a top priority for many developing countries and one of the main goals of development cooperation between North and South. Environmental decisions and actions that are consistent with this priority are likely to gain wider acceptance from governments and stakeholders. Conversely, when such decisions and actions are perceived to be "anti-development" or contrary to poverty reduction goals, resistance to their adoption is predictable.

There is another reason for implementing approaches that integrate environment and development objectives at the global level. Global environmental threats harm the poor–and the poorest countries–disproportionately, because they undermine the natural resource base on which many poor people directly rely for their food security and livelihoods. Poverty reduction is therefore closely linked to sound management of the environment at local, national, regional, and global levels (OECD 2002:13).

At the global level, how can the principle of linking poverty and environment be implemented? Two ways immediately suggest themselves: First, by achieving the UN Millennium Development Goals within the agreed timeline; and second, by maximizing the synergies between development policy and the implementation of environmental treaties.

The UN Millennium Development Goals were adopted by the United Nations General Assembly in 2000 (United Nations 2000). Many of them, particularly those relevant to sustainable development, were subsequently reaffirmed during the recent Johannesburg Summit (WSSD) (UN/DESA 2002:2–5). Achieving these goals is important for the credibility of the international community and will represent a key milestone in realizing sustainable and equitable development.

Another practical step that could be taken to ensure that poverty and environment strategies reinforce each other is to link national development policies with the implementation of environmental treaties. OECD has identified various entry points and approaches to achieve such synergies. One of these is to integrate the national action plans drawn up to implement various MEAs with other national plans such as sustainable development strategies and poverty reduction strategies. Previously, these various government strategies have been conceived in isolation. Other approaches work at ecosystem levels to match development strategies with countries' physical and ecological conditions. These include better utilization of land use planning tools such as zoning; environmental assessment tools to evaluate infrastructure projects; and community-based natural resource management to assure local control over natural resources (OECD 2002:47–57).

In implementing environmental treaties, priority should be given to environmental activities that restore or mitigate the loss of natural resources on which the poor most depend, such as in rural areas, on marginal lands, or in informal peri-urban settlements. In particular, designing and implementing cost-effective responses to the impacts of climate change on the poorest or most affected nations, the least developed countries, and small island states, is an urgent task.

Implementing the Rio Principles

In reforming international environmental governance, it is important to return to the basic principles agreed upon by

(continued on p. 172)

Box 7.4 A Watershed in Global Governance?

The World Commission on Dams (1998–2000) brought together government officials, business people, scholars, and activists to assess the contributions of large dams to development and to formulate principles and guidelines for planning, building, managing, and decommissioning dams. This extraordinary assembly of diverse viewpoints to hash out a contentious problem makes the Commission a high-profile example of a multi-stakeholder process.

Multi-stakeholder processes have formed at the local, national, and international levels with a variety of objectives. Some aim to inform official decision-making processes, others to promote dialogue and understanding between diverse groups, others to monitor policy implementation (Dubash et al. 2001:21; Hemmati 2001:20–21).

The World Commission on Dams was formed to address increasingly frequent and intense international furor over the costs and benefits of large dams. Over the past three decades, civil society protests in Malaysia, India, Lesotho, and Nepal have slowed down or stalled work on dams, sometimes even leading to project cancellation. Proponents argued that dams were essential to meeting growing water, energy, and food security needs, especially in the South. Opponents argued that the negative environmental and social impacts of large dams and the availability of various alternatives (especially for power generation) rendered large dams anachronistic and unacceptable.

A Meeting of the Minds

As the Commission's chairman put it, all sides realized that a "hard headed analysis" of the evidence was required to get beyond constant conflict (Asmal 1999). In 1997, the World Conservation Union (IUCN) and the World Bank convened actors from different sides of the debate to discuss the main issues. At the request of these actors, the IUCN and World Bank helped create the World Commission on Dams shortly thereafter. The Commission's members were chosen to represent the viewpoints of industry, government, the IUCN and World Bank, and NGOs and social movements. Once the Commission and its secretariat were in place, the World Bank and IUCN withdrew to allow them to function independently.

The Commission brought together vastly different perspectives. Commissioners included a former chairman of the principal dams industry association, the CEO of a multinational corporation involved in dam construction, an indigenous peoples' advocate, and an anti-dam activist from an Indian grassroots movement. The inclusion of social justice activists at the negotiating table was a first for international commissions. The chairman and vice-chairman came from developing country governments.

The strength of opposing views within the Commission almost derailed the whole effort. But thanks in part to its commitments to transparency, openness, and independence, the Commission was able to gather a large knowledge base on dams and produce a consensus report from its 12 members. One means of keeping the process open was the Commission's invitation to all stakeholders to share their views of how dams had proven effective or detrimental to their society's development. Commissioners solicited written submissions from all segments of society. From these submissions, they selected representatives from all sides of the issue to present their views in person to the Commission at four regional consultations: In Latin America and the Caribbean; the Middle East and Africa; South Asia; and East and Southeast Asia.

To demonstrate its independence, the Commission was not funded by any one source; it sought to raise funds from all sectors in the debate: Government, industry, and nongovernmental groups. To help keep the process transparent, the Commission posted on-line the terms of reference for the many commissioned papers in the knowledge base, as well as hundreds of other Commission documents. The website won awards for its comprehensiveness and navigability.

The Commission's Findings

In November 2000, the World Commission on Dams released its report, *Dams and Development.* The report makes human rights a central issue in dam development. The Commission argued that until now, governments have failed to apply established international norms to dam-building. Principles enshrined in the Universal Declaration of Human Rights (1948), the Declaration to the Right to Development (1986), and the Rio Declaration (1992) have been brushed aside in the rush to capture dams' perceived benefits.

The Commission proposed a framework for future water and energy decision-making that would explicitly recognize

the rights and risks of different stakeholders to be affected by a proposed dam. The framework calls for policy-makers to clarify who has legitimate needs and entitlements, and to identify whose lives and livelihoods a project puts at risk.

Historically, stakeholders who take voluntary risks, such as governments and investors, have a say in decision-making and an opportunity for their concerns to be addressed. But people who bear involuntary risks, such as communities displaced by dam construction or fishers who lose their livelihoods, seldom have a say. The Commission argued that decision-making processes should respect the rights of all relevant stakeholders, take account of the risks they bear, and negotiate toward appropriate outcomes. This has become known as a "rights and risks approach" to making decisions about dams.

Within this broad framework, the Commission proposed seven strategic priorities to guide future decision-making (WCD 2000:214–256):

- **Gain public acceptance:** Recognize rights, address risks, and safeguard the entitlements of all groups of affected people, particularly indigenous and tribal peoples, women, and other vulnerable groups.

- **Comprehensive options assessment:** Identify appropriate development responses based on comprehensive and participatory assessments of water, food, and energy needs, giving equal significance to social and environmental, as well as economic and financial factors.

- **Address existing dams:** Optimize benefits from existing dams, address outstanding social issues, and strengthen environmental mitigation and restoration measures.

- **Sustain rivers and livelihoods:** Understand, protect, and restore ecosystems at the river basin level.

- **Recognize entitlements and share benefits:** Use joint negotiations with adversely affected people to develop mutually agreeable and legally enforceable mitigation and development provisions that recognize entitlements and ensure that affected people are beneficiaries of the project.

- **Ensure compliance:** Ensure that governments, developers, regulators, and operators meet all commitments made for the planning, implementation, and operation of dams.

- **Share rivers for peace, development, and security:** Initiate a shift in focus from the narrow approach of allocating a finite resource to the sharing of rivers and their associated benefits.

The report offers 26 specific guidelines for putting these principles into practice when assessing water and energy options and planning and operating dams (WCD 2000:278).

Setting International Norms for Dams

The Commission's framework constituted a major advance in international thinking about who should participate in dam-related decision-making and why. It remains an open question as to whether the framework will become the basis for a set of international norms around dams. If so, these norms could apply not only to dams but to a host of other infrastructure developments and extractive industries.

The challenge for the Commission's supporters has been to promote the adoption of the *Dams and Development* framework internationally. In the two years since the report's release, some institutions, like the Indian and Chinese governments, have rejected the report outright, citing concerns that the proposed consultations and safeguards would indefinitely stall nascent dam projects.

Many other institutions have assessed their own principles, laws, and practices to ascertain where they converge with and diverge from the Commission's recommendations. Some have concluded that "business as usual" is the right course. For example, the World Bank's board of directors agreed to disagree with elements of the Commission's report. The Bank did commit to incorporating the report's seven strategic priorities into some of its sector strategies, into advisory information for operational staff, and into a new "Dams Planning and Management Action Plan," with outreach to client countries, World Bank professionals, donors and other interested parties. However, the World Bank will not adopt the 26 guidelines, as many nongovernmental organizations and people's movements would like. The Bank has opted instead to leave it up to individual governments or private sector developers to test the application of the Commission's guidelines in the context of specific projects (World Bank 2001). In other cases, lending agencies and corporations have decided to incorporate new guidelines into their practices.

The most comprehensive and action-oriented approaches have arisen from multi-stakeholder processes convened at the country level. In many respects, these processes are duplications of the World Commission on Dams' own model at a smaller geographic scale. In South Africa, a committee representing government, utilities, affected communities, NGOs, the private sector, finance, and research organizations is assessing how existing South African legislation meshes with the Commission's guidelines. The committee will issue recommendations for specific stakeholder groups on how they can remedy gaps in policy, implementation, and knowledge (South African Steering Committee 2002). In Pakistan, IUCN is convening a series of multi-stakeholder workshops at the

government's request. Participants are reviewing the Commission's strategic priorities in order to assess their relevance and applicability to the Pakistani situation.

There have also been efforts to apply the World Commission on Dams guidelines at the project level. For instance, the consortium funding Laos' Nam Theun II dam and the American company behind Uganda's Bujagali dam contracted consultants to assess the degree of project compliance with WCD guidelines. The Swedish aid agency SIDA is assessing the environmental and social impacts of two SIDA-funded dams—the Pangani dam in Tanzania and the Song Hinh dam in Viet Nam—with a view to implementing additional mitigation measures. Consultants for these contracts will be required to abide by WCD guidelines. However, this agency, like many other multilateral and bilateral donors, considers that affected people's claims for compensation are generally a matter for national governments to address (Development Today 2001). The WCD report, however, suggests that bilateral aid agencies and multilateral development banks "review the portfolio of past projects to identify those that may have underperformed or present unresolved issues and share in addressing the financial burden of such projects for borrower countries" (WCD 2000:315).

An Approach to Global Problems?

In many ways, the World Commission on Dams was a product of our globalizing world. It was initiated by a multilateral development institution, the World Bank, and an international conservation alliance with more than 980 members, the IUCN (IUCN 2003). Its deliberative processes involved individuals and institutions that are active globally: Multinational corporations, international investors, and transnational social movements. But experience with putting the Commission's principles into practice shows that the influence of such global, multi-stakeholder processes relies upon ongoing efforts to democratize decision-making at the national and local levels.

Meanwhile, the World Commission on Dams process may serve as a model for advancing better, more equitable environmental governance in other sectors. The multi-stakeholder approach has been adopted by the Extractive Industries Review, a process housed within the World Bank to inform its future policy on the oil, gas, and mining industries. However, many NGOs monitoring the Extractive Industries Review process consider it a weak cousin to the World Commission on Dams. It is tied closely to—rather than independent of—the Bank and has far fewer resources in terms of funding and staff than did the WCD process (FOE 2002).

At the least, the Commission demonstrated that through a painstaking process of common learning and dialogue, individuals representing the extremes in a debate can overcome differences and craft a wholly new vision for an issue as volatile as dam construction.

countries during the Rio Earth Summit in 1992. These include Principle 10, as discussed at length throughout this book. Two other principles of particular relevance to international environmental governance are the *common but differentiated responsibility (CDR) principle* and the *precautionary approach*.

Reaffirming and implementing the CDR principle, which is a political priority for developing nations, is probably a prerequisite for joint action. This principle is based on the idea that countries differ in their historical responsibility for and, more importantly, in their current capacity to respond to global environmental threats. It requires industrialized economies with greater means and higher consumption levels to do more, at least initially, to meet global environmental challenges. It calls on rich countries to finance obligations under environmental treaties and to assist developing nations in implementing their commitments under such agreements.

While the CDR principle was accepted at the Rio Earth Summit (UNEP 1992) and has been incorporated into various agreements, it continues to be a key political issue debated by governments in many negotiating forums. The Montreal Protocol on ozone depletion is one legal regime where the CDR approach has worked. Through its Multilateral Fund, which is financed by developed countries, developing country parties are given financial assistance to phase out their manufacture of ozone-destroying compounds (UNMFS 2003).

In recent years, however, the debate over how to interpret the CDR principle has intensified. For example, in negotiations on the Kyoto Protocol, the question of how much developing nations should contribute to reducing greenhouse gas emissions was a contentious issue (Baumert and Kete 2001:1–9). Though contentious, the CDR principle continues to be a powerful tool to approach questions of equity at the global level.

Implementing the precautionary approach is also important. Under this principle, precaution must be applied in decisions where environmental risks are uncertain, but carry potentially large costs. The precautionary approach should be integrated into the legal and policy frameworks regulating human activities that affect the global environment–in particular, in drafting national development plans and negotiating environmental treaties.

While the precautionary approach was accepted by governments attending the Rio Earth Summit (UNEP 1992), incorporating it into specific decision-making practices has proven a challenge. Parties to the CBD successfully accomplished this when they negotiated and adopted the Cartagena Protocol on Biosafety. The Protocol allows governments to take a decision not to permit the importation of "living modified organisms" even "if there is lack of scientific certainty due to insufficient relevant scientific information" (CBD Secretariat 2000). Other convention bodies, including future negotiating forums, should be encouraged to take similar decisions.