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Emerging policy issues: environment and development

Background paper for the ministerial consultations

International environmental governance in “The Future We Want”

Discussion paper presented by the Executive Director

Summary

The present document sets out the benefits of the options for reforming international environmental governance suggested in the zero draft outcome document for the United Nations Conference on Sustainable Development, entitled “The Future We Want”. Building on the suggested options of strengthening the capacity of the United Nations Environment Programme or establishing a specialized agency for the environment, it provides additional analysis of the building blocks for each option. The paper concludes by comparing the advantages and disadvantages of each option and suggesting scenarios for implementing them as quickly and efficiently as possible. Some questions are also suggested in an effort to stimulate the ministerial consultations and provide the basis for informed government decision-making at the United Nations Conference on Sustainable Development.

* UNEP/GCSS.XII/1.

Introduction

1. Since the renewal of the international environmental governance debate, in response to paragraph 169 of the 2005 World Summit Outcome,¹ the international environmental governance political process and discussion of the issues have advanced significantly, evolving from a series of recommendations pertaining to fragmentation in the United Nations to the proposals for institutional reform set out in the zero draft of the outcome document for the United Nations Conference on Sustainable Development, entitled “The Future We Want”.²

2. There has long been consensus that the current system of international environmental governance does not adequately respond to the changing environmental situation or to the growing concerns of countries and that the status quo is no longer an option. Gaps in the current system of environmental governance include:

- (a) Lack of an authoritative voice to guide environmental policy effectively at the global level;
- (b) Lack of coherence among global environmental policies and programmes;
- (c) High degree of financial fragmentation;
- (d) Lack of coherence in the governance and administration of multilateral environmental agreements;
- (e) Lack of a central monitoring, review and accountability system for commitments made under multilateral environmental agreements;
- (f) Lack of sufficient, secure and predictable funding;
- (g) Implementation gap experienced at the country level.

3. Paragraph 169 of the 2005 World Summit Outcome called for the implementation of measures to achieve stronger system-wide coherence within the United Nations system. In response, recommendations “to overcome the fragmentation of the United Nations so that the system can deliver as one” were in November 2006 transmitted to the Secretary-General in the report of the Secretary-General’s High-Level Panel on United Nations System-wide Coherence in the Areas of Development, Humanitarian Assistance and the Environment, which included recommendations for an upgraded United Nations Environment Programme (UNEP) with real authority as the environmental policy pillar of the United Nations system.

4. In April 2006, also in response to the 2005 World Summit Outcome, the General Assembly, under the leadership of the ambassadors of Mexico and Switzerland, began informal consultations on international environmental governance. In 2007, following two rounds of consultations and many meetings with permanent representatives in New York, the ambassadors drew up an options paper setting forth a number of conclusions and recommendations. This led to the preparation and revision of a draft resolution entitled “Strengthening the environmental activities in the United Nations system”, which was discussed in May and July 2008. The options paper and draft resolution proposed a mixed approach making the best use of existing structures to meet current needs and making incremental adjustments to existing structures with the intent of better addressing current demands with an eye to future needs, which the co-chairs termed “ambitious incrementalism”. While there was consensus that the international environmental governance system was suffering from a lack of coherence and a deficit in the implementation of what had been agreed to by the international community, there were differing views on how to fix the problem. It was recognized that the discussion needed to be continued in other forums and the co-chairs recommended that the Governing Council of UNEP “take stock and debate the course of action...to find a political compromise and entrust their delegations in New York with pragmatic, creative and constructive proposals, which allow improving the current system”.³

1 General Assembly resolution 60/1 of 16 September 2005.

2 Available at

<http://www.uncsd2012.org/rio20/content/documents/370The%20Future%20We%20Want%2010Jan%20clean.pdf>.

3 See paragraph 11 of the draft resolution “Strengthening the environmental activities in the United Nations system” of 23 July 2008, available at

<http://www.un.org/ga/president/62/issues/environmentalgov/resolution230708.pdf>.

5. This led to two rounds of consultations under the UNEP Governing Council. During the Council's twenty-fifth session, in February 2009, it established a consultative group of ministers or high-level representatives on international environmental governance. The outcome of the consultative group's meetings came to be known as the Belgrade Process set of options, which identified six key objectives of the international environmental governance system (see box below) and their underlying functions, which were presented to the Governing Council/Global Ministerial Environment Forum at its eleventh special session, in February 2010.

Belgrade Process: objectives of international environmental governance

The Belgrade Process options were based on the following, which were identified as the objectives of a system of international environmental governance:

- Creating a strong, credible and coherent science base
- Developing a global authoritative and responsive voice for environmental sustainability
- Achieving coherence within the United Nations system
- Securing sufficient, predictable and coherent funding
- Ensuring a responsive and cohesive approach to meeting country needs
- Facilitating the transition towards a global green economy

6. At its eleventh special session the Council/Forum established a second consultative group to “consider the broader reform of the international environmental governance system, building on the set of options but remaining open to new ideas”. Several rounds of vigorous consultation and debate by this second group yielded the Nairobi-Helsinki Outcome, which was submitted for consideration to the Preparatory Committee for the United Nations Conference on Sustainable Development at its second meeting, in March 2011. The Nairobi-Helsinki Outcome set out five options for the broader institutional reform of international environmental governance:

- (a) Enhancing UNEP;
- (b) Establishing a new umbrella organization for sustainable development;
- (c) Establishing a specialized agency such as a world environment organization;
- (d) Reforming the United Nations Economic and Social Council and the United Nations Commission on Sustainable Development;
- (e) Enhancing institutional reforms and streamlining existing structures.

7. As the themes of the United Nations Conference on Sustainable Development emerged in March 2010⁴ the debate on international environmental governance increasingly focused on the need to place it in the context of sustainable development; at its twenty-sixth session the UNEP Governing Council accordingly invited the Preparatory Committee for the Conference to “consider the options for broader institutional reform identified in the Nairobi-Helsinki Outcome, as a contribution to strengthening the institutional framework for sustainable development by improving international environmental governance”⁵.

8. Nearly one year later, and after several consultations with Governments, civil society and United Nations bodies,⁶ the discussion on the options for international environmental governance reform in the context of sustainable development has progressed in significant ways. The zero draft (dated 10 January 2012) of the outcome document for the United Nations Conference on Sustainable Development,

4 General Assembly resolution 64/236 of 24 December 2009.

5 Governing Council decision 26/1, para. 4.

6 See document UNEP/GCSS.XII/3, report of the Executive Director on international environmental governance.

“The Future We Want”, has been circulated by the co-chairs of the Preparatory Committee. The draft draws on the large number of submissions made by Member States and other stakeholders. Section IV of the draft captures proposals on the theme of the institutional framework for sustainable development, which address all five options identified in the Nairobi-Helsinki Outcome.

9. On the overarching framework for sustainable development, the zero draft includes the options of promoting the role of the Economic and Social Council in the integration of the three pillars of sustainable development and either strengthening the Commission on Sustainable Development or transforming it into a sustainable development council. Two proposals have evolved from the discussions on improving the international environmental governance system as part of the broader effort to reform the overarching framework for sustainable development. The first proposal calls for strengthening the capacity of UNEP by establishing universal membership for its Governing Council and significantly increasing its financial base. The second proposal calls for more transformative change through the establishment of a United Nations specialized agency that would operate on an equal footing with other United Nations specialized agencies; based on UNEP, it would have universal membership of its governing body, a revised and strengthened mandate and stable, adequate and predictable financing. Regarding regional, national and local reforms, the zero draft calls for strengthening regional and subregional mechanisms and for countries to establish national sustainable development councils.

10. The importance of integrating the three pillars of sustainable development has been emphasized throughout the preparatory process for the Conference. The zero draft presents two options for strengthening the environment pillar, both of which are mutually reinforcing and compatible proposals for the overall reform of the institutional framework for sustainable development. Strengthening UNEP or transforming it into a specialized agency would reinforce the environmental pillar of sustainable development and achieve a better balance with the other pillars, whereas strengthening the overarching framework for sustainable development would contribute to the integration of the three pillars.

11. The ministerial consultations that will take place during the twelfth special session of the Governing Council/Global Ministerial Environment Forum provide an opportunity to explore, as part of the preparations for the Conference, various aspects of strengthening environmental governance, including those discussed in the zero draft.

12. The present document aims to facilitate the ministerial consultations by providing further information on the two options proposed in the zero draft for strengthening the capacity of UNEP and transforming UNEP into a specialized agency for the environment. It aims to provide a deeper analysis of the two options by describing how, or to what extent, they would address the gaps in the current system of international environmental governance, and achieve the objectives identified during the Belgrade Process and by analysing their benefits and disadvantages. It also suggests scenarios for implementing the options as quickly and efficiently as possible.

I. Options put forward in the zero draft

A. Strengthening the capacity of UNEP

13. The zero draft sets out the following option for strengthening UNEP in paragraphs 50 and 51:

50. We reaffirm the need to strengthen international environmental governance within the context of the institutional framework for sustainable development, in order to promote a balanced integration of the economic, social and environmental pillars of sustainable development, and to this end:

51. We agree to strengthen the capacity of UNEP to fulfil its mandate by establishing universal membership in its Governing Council and call for significantly increasing its financial base to deepen policy coordination and enhance means of implementation.

14. This option would thus entail upgrading the functions of UNEP. This could be done, building on the General Assembly resolution by which UNEP was established,⁷ through another resolution of the General Assembly transforming UNEP into a more authoritative body equipped to play the necessary

⁷ General Assembly resolution 2997 (XXVII) of 15 December 1972.

coordinating and anchoring role in the international environmental governance system. The building blocks of this option, which are set out in paragraph 51 of the zero draft, could be elaborated as described in the following paragraphs.

1. Global authoritative and responsive voice for environmental sustainability

15. A key element of strengthening UNEP would be establishing it as a global authoritative and responsive voice for the environment. One means of doing that is to provide for universal membership of its Governing Council, with full representation of all ministers, providing them with the legitimacy and authority needed to fulfil the mandate of UNEP and to set the overarching strategy for and provide policy advice to the United Nations system on matters relating to the environment within the context of sustainable development.

16. Another way to strengthen UNEP is to raise the profiles of environment ministries to the same level as those of other ministries. Unless this is done the lack of coherence in environmental policies and programmes will continue and insufficient consideration will be paid to interlinkages both between environmental issues and between the environmental pillar of sustainable development and the economic and social pillars. As clarified by the Office of Legal Affairs, the UNEP Global Ministerial Environment Forum is merely a forum for discussion and does not have independent legal standing or status. This, combined with the limited membership of the Governing Council and its lack of influence over sources of funding for environmental matters, results in a lack of the authority and political power needed to serve as the anchor for international efforts to achieve environmental sustainability.

2. Effectiveness, efficiency and coherence within the United Nations system

17. Developing a system-wide strategy for environment in the United Nations system would go a long way towards increasing the effectiveness, efficiency and coherence of the United Nations system and in that way contribute to strengthening the environmental pillar of sustainable development. The Environment Management Group, which is currently responsible for United Nations system-wide coordination on environmental matters, only partially meets the need for a system-wide approach. A well-executed strategy could engender system-wide cooperation and coordination in the field of environment against the backdrop of the roles and responsibilities of UNEP as outlined in the Nairobi Declaration on the Role and Mandate of the United Nations Environment Programme. It could also foster complementarity within the United Nations System by clarifying the division of labour, avoiding the duplication of efforts and promoting synergies and coherence. Such a strategy could be developed with other parts of the system, including through the Environment Management Group.

18. Although the objectives of many multilateral environmental agreements are interrelated and comprehensive thematic approaches to environmental challenges have been developed, sufficient interlinkages have not been created between administering authorities at the national, regional and global levels. This presents its own challenges to establishing synergies for the effective implementation commitments under multilateral environmental agreements. There is a need to link regional institutional structures with the institutions that administer multilateral environmental agreements. A stronger emphasis should be placed on encouraging synergies between complementary multilateral environmental agreements and identifying guiding elements for realizing such synergies while respecting the autonomy of the governing bodies of the agreements. Such synergies should promote the joint delivery of common services for multilateral environmental agreements with the aim of making them more efficient and cost-effective. They should be based on lessons learned in other processes, such as the synergies process for the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Stockholm Convention on Persistent Organic Pollutants, and should remain flexible, adapting to the specific needs of individual multilateral environmental agreements. They should also aim at reducing the administrative costs of secretariats to free up resources for the implementation of multilateral environmental agreements at the national level, including through capacity-building.

19. Strengthening the capacity of UNEP would not mean altering its status as part of the United Nations system; it would remain an internal component of the United Nations Secretariat and continue to work through the internal coordination mechanisms of the United Nations, including bodies such as the Executive Committee on Economic and Social Affairs. Strengthening UNEP could, however,

involve explicitly defining its relationship with other United Nations bodies as a means of enhancing its effectiveness.

20. Strengthening the capacity of UNEP could also entail giving it a strong legal mandate to address synergies between multilateral environmental agreements and taking other measures aimed at improving coordination between multilateral environmental agreements. Under this scenario, ministers, through the Governing Council, would provide overarching advice to the governing bodies of the multilateral environmental agreements for the purpose of fostering better implementation and clustering of related agreements where economies of scale could be achieved. Ministers would also be able to adopt recommendations to the governing bodies. The governing bodies would remain autonomous but would be better served by UNEP. There would also be scope for establishing mechanisms for countries, through the Governing Council, to undertake peer reviews of one another in respect of progress in meeting the commitments outlined in multilateral environmental agreements. Recommendations coming from UNEP would be subject to General Assembly approval.

3. Strong, credible and accessible science base and policy interface

21. Strengthening the science base for actions to protect the environment would entail working within existing frameworks to facilitate cooperation in the collection, management, analysis, use and exchange of environmental information, the further development of internationally agreed indicators (including through financial support and capacity-building in developing countries), early warning and alert services and assessments and the preparation of science-based advice and development of policy options. Building on existing international environmental assessments, scientific panels and information networks, the Global Environment Outlook process could be strengthened to improve the links between science and policy and realigned to work better in cooperation and coordination with existing platforms. Particular focus would need to be placed on meeting the science-policy capacity needs of developing countries and countries with economies in transition.

22. Strengthening the capacity of UNEP could be encouraged and supported by Governments through the creation of subsidiary bodies and committees by the Governing Council, which would enable UNEP to establish a permanent science-policy interface, address information and capacity gaps and focus on enhanced dissemination of data and information from the global observing systems and other global initiatives at the regional and national levels, thereby enhancing capacities at those levels. The establishment of a science-policy advisory committee could also be explored.

4. Central monitoring, review and accountability system for commitments made under multilateral environmental agreements

23. Most international regimes, including those on labour, human rights and international trade, have agreed upon mechanisms for measuring the effectiveness of the implementation of agreements in their respective areas. Very few multilateral environmental agreements, however, have such mechanisms, nor is there any system-wide way to track how multilateral environmental agreements are contributing to environmental protection and sustainability. Upon its creation in 1972 UNEP was mandated to keep the implementation of environmental programmes within the United Nations system under review and to assess their effectiveness, but no mechanism for doing so has been put in place.

24. Most review mechanisms provide for each country to conduct its own assessment of its implementation of international commitments, followed by a review through an intergovernmental committee or panel of experts. Several review mechanisms of this sort have been in place since the inception of the agreements to which they pertain. The International Labour Organization (ILO), for example, has had a review system in place for all its treaties since it was first established, while other international organizations have developed such systems after some delay. When the Human Rights Council was established it agreed to review how international human rights instruments were collectively contributing to human rights protection; pursuant to that agreement the universal periodical review mechanism was established to report on the implementation of human rights instruments.

25. Based on the experience of existing review systems in other areas of international law and policy, a voluntary universal review system could be established for evaluating the implementation of multilateral environmental agreements at the national level. Reviews could be performed periodically on clusters of agreements to assess both the implementation of individual agreements and the collective impact of

multiple agreements. National reports on implementation could be reviewed through an intergovernmental process and international assistance and enabling activities could focus on implementation gaps.

5. Securing sufficient, predictable and coherent funding

26. Fragmentation of international environmental governance is felt not only in the development of numerous separate multilateral environmental agreements, but is also characteristic of the international environmental financing landscape. Unlike in other areas, global environmental policymaking is separated from global environmental financing. In a world of scarcity, such inefficiency should be questioned. The zero draft outcome document emphasizes the need for secure financing for environmental sustainability. A closer alignment between global environmental policy as formulated by the Governing Council of UNEP and global environmental funding as provided by the Global Environment Facility (GEF) could be one way of improving international environmental governance.

27. Strengthening the capacity of UNEP could provide it with the mandate and authority to establish a system that enables ministers, through the Governing Council, to link global environmental policy with global financing for the environment, including by strengthening GEF as a major financial mechanism for global environment and providing it with strategic direction. The financial arrangements for UNEP under such an option could be similar to what they are currently, and establishing universal membership would not of necessity require the application of the United Nations scale of assessed contributions. There would, however, be more scope for addressing financial fragmentation in the international environmental governance system. For example, in addressing the inefficiencies arising out of the separate administration of multilateral environmental agreement secretariats, the Governing Council, enjoying universal membership and in agreement with the governing bodies of relevant multilateral environmental agreements, could amend current arrangements to establish joint secretariat functions such as legal, conference and financial management services, similar to the synergies process undertaken among the chemicals and wastes conventions.

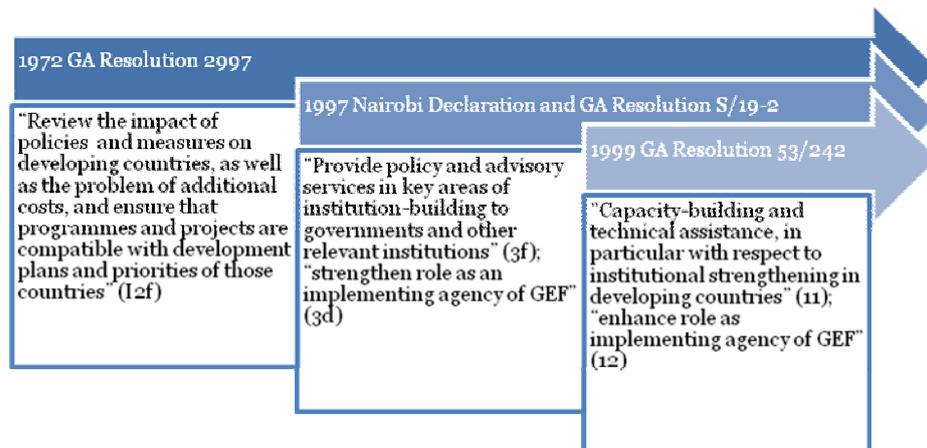
6. Responsive and cohesive approach to meeting countries' needs

28. Lack of implementation is the most defining gap in the current system of international environmental governance. There has been some debate about the role of UNEP; building national capacity, however, has been a part of the UNEP mandate since 1972. Resolution 2997 (XXVII) specified this function, as did the Nairobi Declaration (see the figure below).

29. There is no agreed formula for strengthening UNEP to respond better to countries' needs. Some countries would do so by enhancing its regional presence, including by giving greater capacity to regional offices to assist countries, and its ability to work effectively with the United Nations Development Programme and other United Nations entities operating at the country level. Some countries espouse the view that an enhanced UNEP would essentially be tasked with the same mandate as a specialized agency for the environment (as described in section C below). Regardless of the option chosen, given the scope of environmental activities and the number of entities engaged in related activities an enhanced UNEP would have to work with the rest of the United Nations system to ensure coherence in policymaking and implementation.

30. Developing a system-wide capacity-building framework for the environment to ensure a responsive and cohesive approach to meeting countries' needs, taking into account the Bali Strategic Plan for Technology Support and Capacity-building, could also be implemented under this option. Such a framework would be targeted at strengthening the national capacities required to implement multilateral environment agreements and agreed international environmental objectives. In addition, strategic engagement at the national level could be boosted by increasing the capacity of UNEP regional offices, working with the Resident Coordinators and through United Nations development assistance frameworks, to be more responsive to country environmental needs.

UNEP role and mandate on national institutional capacity-building and technical assistance



7. Institutional status of an enhanced UNEP

31. Strengthening the capacity of UNEP could be achieved through a General Assembly resolution that built on General Assembly resolution 2997 (XXVII), by which the General Assembly established UNEP, and the Nairobi Declaration, by which the Governing Council of UNEP and the General Assembly reaffirmed the programme's mandate. For example, such a resolution could strengthen the governing bodies of UNEP by giving the Governing Council universal membership, establishing an executive board if so desired, providing a strong mandate to develop synergies between multilateral environmental agreements and modifying the legal mandate of UNEP to strengthen its ability to address implementation gaps at the national and regional levels working with existing agencies. Improving the financing of UNEP could be achieved through a General Assembly resolution to increase the funding that it receives from the United Nations Secretariat regular budget. Under such a scenario UNEP could maintain the same institutional and reporting arrangements in the United Nations that it presently has (i.e., reporting to the General Assembly through the Economic and Social Council).

32. Parallels have been drawn between strengthening the capacity of UNEP and the establishment of the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women). Like UNEP, UN-Women was created through a General Assembly resolution and is a subsidiary organ of the General Assembly and the Economic and Social Council (see table). By consolidating the functions of four pre-existing entities in UN-Women, the Member States of the United Nations expressed their agreement that there was a need for a more cohesive and coordinated approach to promoting gender equality. The establishment of UN-Women was intended to enhance system-wide efforts and does not diminish the responsibilities of other organizations to continue their support for gender equality. The UN-Women mandate calls upon UN-Women to have universal coverage and strategic presence and to ensure closer linkages between norm setting intergovernmental work and operations in the field.⁸

⁸ United Nations Entity for Gender Equality and the Empowerment of Women strategic plan, 2011–2013 (UNW/2011/9).

Table: Select provisions of resolution 64/289 establishing UN-Women	
Universality	“Based on the principle of universality, the Entity shall provide, through its normative support functions and operational activities, guidance and technical support to all Member States, across all levels of development and in all regions, at their request, on gender equality, the empowerment and rights of women and gender mainstreaming.” 51 (b)
Governance – Executive Board	“...decides to establish an Executive Board as the governing body of the Entity to provide intergovernmental support to and supervision of its operational activities.” 50 Executive Board consists of 41 members (60), elected by the Economic and Social Council for 3-year terms (64)
Governance – hierarchy	“...the General Assembly, the Economic and Social Council and the Commission on the Status of Women shall constitute the multi-tiered intergovernmental governance structure for the normative support functions and shall provide normative policy guidance to the Entity.” 57 (a)
Finance	Funded from the United Nations regular budget and voluntary contributions. 75 “...financial regulations and rules similar to those of other operational United Nations funds and programmes, and consistent with the Financial Regulations and Rules of the United Nations.” 79
Reporting	“the Executive Board shall report annually on its programme and activities to the General Assembly, through the Economic and Social Council at its substantive session”. 65

B. UNEP as a specialized agency for the environment

33. Paragraph 51 alt. of the zero draft sets out the option of establishing a specialized United Nations agency for the environment:

We resolve to establish a UN specialized agency for the environment with universal membership of its Governing Council, based on UNEP, with a revised and strengthened mandate, supported by stable, adequate and predictable financial contributions and operating on an equal footing with other UN specialized agencies. This agency, based in Nairobi, would cooperate closely with other specialized agencies.

34. The option of transforming UNEP into a specialized agency (often referred to as a world environment organization), would be based on an independently negotiated treaty as the agency’s constitutional foundation, as provided for by Articles 55 and 59 of the Charter of the United Nations. Specialized agencies are mandated to deal with specific issue areas, but are not exclusively in charge of those areas. Just as other specialized agencies, such as ILO or the World Health Organization, a specialized environment agency would cooperate with its sister United Nations agencies and the United Nations system at large.

35. The added value of establishing a specialized agency for the environment, in addition to the features described in the section on strengthening the capacity of UNEP above, is described in the following paragraphs.

1. Global authoritative and responsive voice for environmental sustainability

36. Establishing UNEP as a specialized agency would be a means of responding to the lack of a global authoritative and responsive voice for the environment. It would place equal importance on the environmental sector as has been placed on other sectors of sustainable development that have strong voices promoting their causes. Based on universal membership, a specialized agency would provide the world’s environment ministers with a platform for agreeing on global environmental policies and a mechanism for providing guidance to Governments at large, the United Nations system and other

international and regional organizations. Just as other specialized agencies, a specialized agency for the environment could be established with the authority to adopt decisions that are not subject to further review by the General Assembly. This would ensure the agency's ability to adopt decisions in the context of international environmental governance. The agency could initiate the negotiation of treaties to further its work and, once the treaties entered into force, administer them, thereby avoiding fragmentation of the governance system. It could also enter into agreements with international organizations, thereby providing further guidance and coordination across the United Nations system. Subsidiary bodies and committees could be created to enhance the agency's focus on specific subject matters and increase the efficiency of its operations.

2. Effectiveness, efficiency and coherence within the United Nations system

37. Equipped with an adequate mandate, a specialized agency would be in a position to foster strong synergies between multilateral environmental agreements. This would enable the reduction of overlaps and gaps in legal agreements. It could also make use of consolidated scientific mechanisms and other expert committees. Implementation at the national level could be combined and interlinkages better taken into account. A specialized agency would also be able to reduce administrative costs by providing unified administrative services to all agreements.

38. While decisions taken by the governing bodies of multilateral environmental agreements apply entirely within the scope of the agreements, increasingly multilateral environmental agreement must function in the greater context of environmental sustainability in order to achieve their objectives effectively and efficiently. This requires greater cooperation between the agreements and other parts of the United Nations system. Multilateral environmental agreements are not self-contained in that they operate in the context of international law. A specialized environment agency would be the principal international body for the environment and would develop and evolve a system-wide environmental agenda. It would also provide advice on the priorities, activities and actions required for holistic approaches to environmental sustainability. It would make recommendations in this domain to the entire United Nations system, to multilateral environmental agreements and to all countries. Given this, it can be expected that multilateral environmental agreements adopting decisions in areas of cooperation in the wider context of environmental sustainability would not adopt them in isolation and that they would take into consideration the recommendations of the specialized agency.

39. Given that a specialized agency may be granted the power to establish its own treaties and conventions, future multilateral environmental agreements could be negotiated under the auspices of the agency; this would constitute an advantage over the current system as it would reduce the treaty fragmentation that has developed over the past decades.

40. Provided with adequate authority, a specialized agency for the environment would also be able to coordinate the environmental pillar of sustainable development in general through its increased weight vis-à-vis other specialized agencies within the United Nations system. It would be in a better position within the United Nations system to develop the global environmental agenda for the entire system.

3. Securing sufficient, predictable and coherent funding

41. As set out in the description of an enhanced UNEP above, the current financing architecture for the environment is as fragmented as the legal framework. A specialized agency, if Governments were willing, could open up opportunities for aligning the global policy authority for the environment with the global environmental financing mechanism, GEF. Environment ministers, through the governing body of the new agency, could take a lead in formulating policy guidance on funds currently channelled through GEF, as the governing body of the specialized agency (having universal membership) could be brought into a closer relationship with the GEF Council. Such an arrangement would allow for a more strategic allocation of resources across environmental sectors tailored to the needs of countries. Rather than benefiting countries through the implementation of a limited number of multilateral environmental agreements, allocation could be broadened and applied, for example, on a cluster basis. This would decrease overhead costs and free funds for further implementation. A specialized agency could also be mandated to assist countries in gaining access to funding.

42. Increased predictability and stability of funding could be achieved through a system of assessed contributions, a common feature of specialized agencies although not one that is legally required. The actual funding modalities of specialized agencies are typically established in their founding documents and

further elaborated in financial regulations. These arrangements can vary: financing can be completely voluntary, it can be based on a hybrid approach in which a portion of funding is assessed and a portion is voluntary, it can be based on an indicative scale of contributions or it can employ some other means. The mode of financing a specialized environment agency would depend on how Governments would like to set up the agency.

4. Strong, credible and accessible science base and policy interface

43. A specialized agency would also allow for defragmenting the current science-policy interface. A science-policy advisory committee could be established under the governing body of the agency. It would be composed of experts of international standing representing the United Nations regions. It would meet regularly between sessions of the governing body and ensure continuous scientific support for the agency's work in support of efforts to meet countries' needs. Existing scientific mechanisms could be integrated, within a committee under a specialized agency. The committee would then be well placed to consider interlinkages between environmental sectors and between the environmental, economic and social sectors. Furthermore, it could effectively target the needs of the agency in formulating global and regional policies and, through an enhanced capacity-building mechanism, could assist developing countries in building their own scientific assessment and analytical capacity. Specifically, it could be tasked with:

- (a) Conducting, every five years, scientific, globally integrated assessments with an emphasis on providing policy relevant information to decision makers;
- (b) Facilitating and putting more emphasis on timely and results-based solutions for consideration;
- (c) Providing scientific data to be used in assessing the implementation of multilateral environmental agreements;
- (d) Developing standardized indicators for monitoring and evaluating environmental activities;
- (e) Responding to requests for information, disseminating scientific findings and facilitating data collection and capacity-building in developing countries;
- (f) Enabling rapid and interactive assessments and the sharing of near-real-time information access using the UNEP-Live platform;
- (g) Keeping track of and analysing scientific assessments produced by other bodies such as the Intergovernmental Panel on Climate Change and the future intergovernmental panel on biodiversity and ecosystem services.

5. Central monitoring, review and accountability system for commitments made under multilateral environmental agreements

44. As described above, a specialized environment agency's governing body, enjoying universal membership, could set up a committee to review the implementation of commitments under multilateral environmental agreements on a voluntary but regular basis. Review could take place based on a clustering approach of related agreements such as those relating to biodiversity, waste and chemicals, marine and freshwater and atmosphere. Such an approach would foster synergies among multilateral environmental agreements and provide opportunities to assess capacity-building needs. Based on such reviews further support could be given to countries.

45. It is recognized that national Governments acting alone are challenged in monitoring the implementation of environmental commitments. Other stakeholders, such as experts, local authorities and civil society organizations, could therefore be included in the review committee to assist the process.

6. Responsive and cohesive approach to meeting countries' needs

46. A specialized agency could be equipped with an implementation mandate strong enough to enable it to support countries' implementation efforts at the regional and national levels effectively. Such a mandate could work through the "One United Nations" system and Resident Coordinator programme to complement existing work on the ground. It could focus on three strategic priorities: the implementation of agreed commitments and goals; support in integrating environmental sustainability priorities into economic policies and development and poverty reduction strategies and plans; and capacity-building.

47. A specialized agency could have a strategic network of regional offices and country presence. This would enable effective cooperation with regional processes and initiatives, including the regional economic commissions, regional processes such as the African Ministerial Conference on the Environment and regional development banks. If not working through partner organizations, the staff of the specialized agency could be placed in existing United Nations offices and country teams, in addition to providing targeted national support through regional offices. Based on initial needs assessments of countries, conducted independently or through United Nations development assistance frameworks.

48. A specialized agency could design environmental policies that could be mainstreamed by development agencies at the regional and national levels. This would include policies that address the poverty-environment nexus, as currently promoted and handled by the UNEP/United Nations Development Programme Poverty Environment Initiative, ecosystem valuation, as currently promoted by the UNEP Division of Environmental Policy Implementation and the green economy team or green economy policies in different sectors, as supported by the green economy team.

49. Programmes such as the UNEP multilateral environmental agreement focal point system could form an integral part of the regional and country programmes. Working in close cooperation with multilateral environmental agreement secretariats it could support the governing bodies of the agreements in implementing commitments while maximizing efficient resource use. Taking a clustering approach, the multilateral environmental agreement focal point system could be enhanced to encompass marine and freshwater and atmosphere clusters in addition to the already existing biodiversity and chemicals and waste clusters. A clustering approach could also help to rationalize multilateral environmental agreement costs by combining responses to commitments arising under related agreements.

50. The Poverty and Environment Initiative provides a formula for integrating environmental priorities into national poverty reduction and development strategies and plans. It could be extended to form an essential part of “One United Nations” programmes and United Nations development assistance frameworks. Furthermore, policy tools, facilitation of technology development, transfer and use, knowledge transfer and other measures for achieving the transition to a green economy could be combined with existing tools to enable developing countries to leap-frog to developed green economies.

51. Capacity-building, whether as a stand-alone activity or as part of a substantive programme or project, would be a basic building block of any country support provided through a specialized environment agency. Initial needs assessments could determine the overall extent of support needed, including requirements for stand-alone capacity. Capacity-building measures would ideally be integrated into general governance support programmes to increase their effectiveness.

52. As part of regional support, the agency’s regional offices would provide a platform for initiating and executing South-South cooperation. Understanding the needs and bringing together the expertise of each region would allow it to match potential partners for South-South cooperation, thereby opening up an additional avenue for support.

53. A specialized agency could also include in its governance processes and implementation mandate enhanced partnerships with local governmental authorities and civil society organizations. Needs assessments could be carried out in consultation with local governmental authorities, non-governmental organizations and experts.

C. Comparing the options

54. Both options – enhancing UNEP through a General Assembly resolution and establishing a specialized environment agency – present advantages and disadvantages. They are outlined below.

55. Enhancing UNEP through a General Assembly resolution would yield some of the benefits that upgrading UNEP to a specialized agency would yield. The following advantages have been cited for this option:

- (a) Universal membership – allowing for broader legitimacy when decisions are taken in the governing body;⁹
- (b) Would provide environment ministers with a platform for considering stronger synergies between multilateral environmental agreements, overcoming the disparity between the membership of the

⁹ Advantages (a), (b) and (c) could also characterize a specialized agency, depending on its institutional set-up.

agreements' governing bodies and the UNEP Governing Council and making recommendations to the governing bodies;

- (c) Would establish a system-wide strategy for environmental activities in the United Nations;
- (d) Would provide scope for establishing a permanent science-policy mechanism to address the information and capacity-building needs of countries in a synergistic and comprehensive manner;
- (e) Would provide a mandate for a stronger implementation arm to support developing countries and countries with economies in transition with national implementation of internationally agreed environmental commitments;
- (f) Negotiation of reforms by the General Assembly would mean that they would be adopted by all Member States upon the adoption of a resolution by the General Assembly, without requiring ratification by Member States;
- (g) Access to the United Nations regular budget.

56. Disadvantages of enhancing UNEP through a General Assembly resolution include:

- (a) Lack of autonomy for environmental decision-making in the United Nations system, as it UNEP would continue to derive its legal personality from the General Assembly and hence decisions adopted by the UNEP Governing Council would continue to require General Assembly approval;
- (b) Lack of clarity of the relationship between UNEP and specialized agencies, including financial relationships;
- (c) Inability to establish treaties.

57. The following advantages have been cited for the option of establishing UNEP as a specialized agency for the environment:

- (a) Would provide a strong platform for environment ministers to set the global agenda and coherent decision-making in the United Nations system;
- (b) Universal membership, allowing for broader legitimacy when decisions are taken in the governing body;
- (c) Would clarify the relationship between UNEP and other specialized agencies, including financial relationships;
- (d) Would establish a system-wide strategy for environmental activities in the United Nations;
- (e) Would enable UNEP to adopt treaties and other instruments;
- (f) Would provide environment ministers with a platform for making recommendations to the governing bodies of multilateral environmental agreements and thereby foster stronger synergies;
- (g) Would provide the scope for establishing a permanent science-policy mechanism to meet the information and capacity-building needs of members in a synergistic and comprehensive manner;
- (h) Would provide a mandate for stronger support to developing countries and countries with economies in transition through capacity-building and technical assistance to support national implementation of internationally agreed environmental commitments.

58. Disadvantages of establishing UNEP as a specialized agency for the environment include:

- (a) The agency would not receive a regular budget from the United Nations Secretariat (regular budget resources currently constitute 4 per cent of the total budget of UNEP) and would have to rely on contributions from member States only;
- (b) Negotiation of the agency's founding instrument would require the establishment of an independent negotiation process and the outcome would have to be ratified by countries according to national law.

D. Strengthened national and regional environmental governance, a fundamental aspect of all reform options

59. While the broader reform options offer certain advantages and disadvantages, none will be fully effective if they are not carried out in conjunction with the reform of environmental governance at the national and regional levels. The objective of international environmental governance is to provide effective and efficient cooperation among countries in order to meet environmental challenges. International environmental governance works most effectively and efficiently when it is compatible and mutually-reinforcing with national environmental governance and supported by strong regional and subregional governance. Key elements for strengthening national governance could include:

- (a) Strengthening and developing tools and mechanisms for improving the nexus between social, environmental and economic related decision-making;
- (b) Improving mechanisms for building consensus among stakeholders
- (c) Creating a mechanism for ensuring continuity and assuring inter-generational equity in respect of ecosystem use;
- (d) Making better use of peer review or advisory bodies, organized at the national or subregional levels, to appraise the movement towards environmental sustainability and sustainable development;
- (e) Increasing investment in building public awareness and understanding;
- (f) Enhancing the knowledge base to provide integrated data and information to improve decision-making, facilitating open access by decision-makers and the public and improving data accessibility through better collaboration with global networks, making use of modern information and communication technologies;
- (g) Improving use of the principle of subsidiarity to devolve governance, implementation and accountability to appropriate levels of government, including at the local and community level.

60. Key reforms at the regional and subregional levels could include:

- (a) Improving the use of regional and subregional intergovernmental organizations to contribute to the coherence of sustainable development policies at the national and global levels, supporting countries in their implementation, monitoring and reporting and encouraging accountability;
- (b) Forging approaches to the management of shared resources and transboundary issues.

II. Conclusion: Next steps that ministers might wish to consider for the United Nations Conference on Sustainable Development

61. The United Nations Conference on Sustainable Development presents an opportunity, perhaps greater than any other since the Conference on the Human Environment took place in Stockholm in 1972, to strengthen the international environmental governance system. The Conference will be the culmination of more than six years of discussion since the 2005 Millennium Assembly placed the fragmentation of the international environmental governance system and the need to improve it on the political agenda of countries. The Belgrade Process options, the Nairobi-Helsinki Outcome and the preparatory process for the Conference have been important stepping stones along the way, but the Conference itself represents an exceptional opportunity to adopt transformative decisions on the future of environmental governance in the broader context of the institutional framework for sustainable development.

62. As discussed above, two options are presented in the zero draft outcome document: a strengthened UNEP with universal membership and stronger finance or a UNEP transformed into a specialized agency with adequate financing and universal membership. Governments should now decide on which of these options would best serve them in meeting their citizen's environmental challenges and providing ministers of environment the strongest platform from which to guide the world in these times of unprecedented environmental change.

63. While the Conference participants must themselves pronounce on which of the reform options they have chosen, it is unlikely that the details of the agreed option will be negotiated at the Conference. It will be important nevertheless that at the Conference ministers and their Governments consider the most

suitable process for implementing the chosen option as effectively and efficiently as possible. Agreeing on basic modalities for negotiating the options will be important. Such modalities could include a decision on the appropriate forum in which to negotiate the details of the chosen option; who will assume the leadership of the negotiation process; and how to establish a short and time-bound process for arriving at a final conclusion and officially completing adoption of the agreed option. Some scenarios (not an exhaustive list) are presented here.

A. Strengthen UNEP with stronger funding and universal membership

64. Adoption of this option would require a General Assembly resolution. Adoption of a resolution could be achieved in various ways:

- (a) Through the leadership of the President of the General Assembly, the General Assembly could adopt a resolution immediately following adoption of the recommendations by the participants at the United Nations Conference on Sustainable Development;
- (b) The UNEP Governing Council could make a recommendation on the details of the chosen option to the General Assembly for adoption by the General Assembly within one year;
- (c) The Secretary-General, in collaboration with the UNEP Executive Director, could make recommendations on the details of the chosen option based on consultations with Governments;
- (d) A consultative group could be tasked with making recommendations on the details of the chosen option to the General Assembly.

B. UNEP transformed into a specialized agency

65. Under this option it would be necessary to negotiate an agreement to transform UNEP into a specialized agency. Once an agreement was reached, a plenipotentiary conference of Governments would establish the agency. Based on the customary processes for establishing specialized agencies the Secretary-General, in collaboration with the UNEP Executive Director, could present draft articles to the General Assembly for adoption. This option could include the Secretary-General and the UNEP Executive Director setting up a consultative group of Governments to agree on the draft articles prior to their submission to the General Assembly. Alternatively, an intergovernmental negotiating committee could be established under the General Assembly to present draft articles to a plenipotentiary conference.

IV. Questions for discussion during the interactive discussions

66. During the ministerial consultations, ministers and heads of delegation are expected to engage in interactive discussions in roundtable format.

67. It has become the practice for the President of the Governing Council/Global Ministerial Environment Forum to prepare a summary of the ministerial consultations that take place at each session. The summary would provide an opportunity for environment ministers to send a collective message at a critical stage in the preparatory process of the UN Conference on Sustainable Development.

68. The bullets below set out a number of questions that could serve as the basis for starting the interactive discussions:

- How does each option improve international environmental governance, including the ability to respond to country needs?
- Which options will give environment ministers the voice and authority at the international level to set the global environmental agenda and address global environmental challenges?
- In a world of resource scarcity, how can global environmental policy-making and financing be better aligned to make optimal use of resources?
- What needs to be agreed at the United Nations Conference on Sustainable Development to establish either a strengthened UNEP or a specialized agency for the environment?