

# AN INTERNALIZATION BASED WORLD ENVIRONMENTAL ORGANIZATION\*

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## **Abstract**

We evaluate the possibilities for a new World Environmental Organization (WEO), with our discussion motivated both by recent calls for such an organization in light of WTO trade and environment conflicts and the relative absence of internalization of global externalities. We propose an organization building upon the idea of facilitating Coasian deals on the global environment. We motivate the establishment of such an organization by itemizing the ways in which global environmental deals are presently restrained by various impediments, including free riding, property right ambiguities, and mechanisms for authentication and verification. We indicate how such a WEO might help in each of these areas, stressing the differences from the WTO which is a much narrower bargaining framework.

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## **1. INTRODUCTION AND BACKGROUND**

This paper sets out a proposal for a new world body on the environment aimed at improving environmental quality through bargained deals on the environment. Just as the GATT/WTO tries to liberalize trade in goods and services by removing border impediments on trade through negotiated exchanges of trade policy concessions, so we argue that a World Environmental Organization (WEO) should have as its principle focus removing impediments to bargaining (and trades) on the global environment. Exchanges of commitments on forest cover, maintenance of coral reefs, species management, biodiversity protection and other environmental concessions in return for cash, policy change (trade policy changes, for instance) and other considerations could all fall under the bargaining umbrella of a WEO. If such bargains were struck, the result would be improved environmental quality and transfers of resources for developmental purposes to poorer countries who, in the main, are custodians of these assets.

As such, we depart from other recent proposals for a global environmental body stemming in one way or another from the trade and environment debate, now embroiling the WTO. Thus, calls have come from high levels in the WTO for a new forum away from the WTO where environmental issues can be discussed, from researchers and others who have suggested an arbitration agency to resolve conflict between WTO commitments and environmental arrangements, from prominent politicians and their advisers who suggest the need both for a strengthened and consolidated global environmental agency, and an agency to oversee present international environmental treaties and other arrangements now in place. The 2002 Earth Summit to be held under UNEP auspices has discussion of a possible WEO on its agenda reflecting these proposals.

Our belief is that these calls have not really focused on central or substantive environmental policy problems, but instead deal with tangential issues in proposals which we see as likely to be inconsequential in impact. Vague proposals to strengthen UNEP, to oversee enforcement of existing environmental treaties (which themselves contain their own enforcement arrangements), or to provide an alternative location to discuss trade and environment issues do not deal with the central global environmental problem of the relative lack of internalization of cross border and global externalities. The issue is not seeking out mutually agreed statements of principle of what constitutes sound environmental management (in the tradition of sustainability, the Stockholm Declaration and the Brundtland Report, the Rio Declaration, and Agenda 21) or suggesting rearrangements of current institutional arrangements, but rather how we design mechanisms to achieve internalisation goals.

The WEO we propose we see as in the spirit of Coase (1960), and reflects what to us is a relative lack of Coasian deals to internalize externalities at the international level. Our proposal is for a body that seeks to achieve internalization internationally, and by better facilitating bargained deals. Reducing incentives for free riding, and allowing for verification of completion of contracts by acting as a financial guarantor we see as two key elements. Such a WEO could be designed to cover all externalities, both within as well as across countries, although our focus is on cross border externalities since within country externalities can in principle be dealt with by solely domestic initiatives.

We argue that the present global environmental regime is deficient in attaining the internalisation goal we suggest for global environmental policy. The various principles (somewhat short of a treaty) embodied in the Rio Declarations, and a series of around 200 largely issue specific environmental agreements have little to do with internalisation. Even though a small number of

recent treaty arrangements (Montreal and Kyoto Protocols) move in the direction of internalisation, we secondly argue that the patchwork quilt of issue specific, science driven, global and regional treaties have achieved relatively little. These largely define the global environmental regime, and narrow topic and largely non side payment negotiations have spawned shallow treaties under which opportunities for achieving more major joint gains from cross country internalisation of externalities have not been realized. Few mechanisms guide and focus efforts to internalise those externalities which underlie global environmental failure. Devices to remedy free riding, time inconsistency and other problems retarding bargaining have attracted relatively little policy attention. We argue that these failures of negotiation can best be corrected through a new agency aiming to internalise global externalities through innovative and aggressive environmental deal making.

We cite free riding, ambiguous property rights, time inconsistency, and contract enforcement as four central reasons why global externalities go uninternalised. Weakening their impacts on incentives to bargain should, in our view, be at the heart of the global environmental policy regime. We see a new WEO as facilitating and completing the deal-making on environment that the global economy needs to raise environmental standards through internalisation.

We see good reasons for consideration of this form of World Environmental Organization at this time, even though the immediate demand for it may appear to some to be limited. An organization of this type can achieve both environmental quality improvements and new resource flows to developing countries through bargained deals. We see discussion of the global environmental regime for the last 15 or so years as having been focussed on an elusive search for principles to guide the global regime (sustainable development and the Rio Declaration), rather than on operational mechanisms that actually improve environmental quality through incentive based

mechanisms. As such, we suggest a WEO can help focus debate and marshal support for new environmental action, and can also counterbalance the institutional presence of agencies in non-environmental areas, such as the World Trade Organization (WTO).

While we see a WEO as playing a central role in achieving improvements in the areas of global deal making we list above, several of the resulting environmental deals are worth emphasis. Low income developing countries may be able to obtain valuable resources for development by making commitments to undertake environmental protection at home. Thus, for them, such negotiations are about much more than the environment since these countries will also be able to bargain collectively on both environmental and non-environmental dimensions of issues in a WEO, substantially enhancing their bargaining power. We also note that opportunities may exist for countries experiencing difficulties in implementing their own domestic environmental policies to use the political support of an international entity (a WEO) to achieve their objectives. Issue linkage in negotiation between environmental and non-environmental areas may also be made easier through a WEO since these links require a level of coordination across sub areas and regions in the environmental area that is currently difficult to imagine occurring without agency support.

Importantly, we see the potential for substantial gains for developing countries from participation in a WEO of the form we outline, since a WEO can act as a focal point for developing country coalitional formation in negotiation. Resource transfers to the developing countries in return for strengthened environmental regimes will be larger if developing countries bargain jointly in a WEO rather than as single countries.

Developing countries may, however, still be cautious about such a proposal. Their concerns would likely be whether any advantages to them would be large enough to significantly contribute to

development, whether an additional global pressurizing agency along World Bank/IMF lines could result, and the extent to which growth and development might be slowed by taking on environmental commitments. Caution towards a WEO may be a likely initial developing country response, and one which has to be clearly acknowledged, but we would argue that the potential gains remain. The heterogeneity of both interest and circumstance across individual countries, further complicates a developing country reaction to our WEO proposal.

A WEO as we propose is also some distance from the current WTO and this should be noted. While the latter is both a rule and bargaining framework, it is a restricted bargaining framework since no cash is allowed in bargaining and the rules of the WTO Charter (via GATT 1994) also constrain allowable bargaining (such as through the MFN rule which prevents pairwise country deals). Its initial focus was on preventing a reversion to the global trade regime of the 1930's in the post war years, as well as further liberalising through negotiated exchanges of concessions, more so than on internalising externalities. We evaluate both the rationale for and possible organisational structure of a WEO in light of experience with the WTO.

With all proposals for major institutional change the catalyst to change is often particular events rather than merely stating the proposal itself. For now the catalyst for a possible global environmental body is the trade and environment conflict in the WTO, but this we think may change. Major additional global environmental damage in the next few years which cooperation might have mitigated could prove to be a more powerful catalyst, if and when it occurs. Entities such as the WEO also sometimes evolve out of small beginnings, and only slowly grow into full form. Time will only tell whether the institutional structure we suggest here begins to emerge from the present global

environmental regime, or whether radical response to future external shocks ultimately proves to be the main driving force.

## **2. OBJECTIVES FOR A WEO**

We see a series of objectives for a WEO, all reflecting the theme that an internalization failures exist in the global environmental area, and that these can best be remedied by providing a new global institutional arrangement for bargaining as a way of achieving a higher degree of internalisation. In simple terms a WEO's objective would be that those who have custody of assets should, through bargained deals, be able to get those abroad who have high value over these assets to pay for higher standards of environmental management that they would take on for the wider benefit. The result would be improved environmental quality and transfers to custodians of assets, many of whom are in poor countries. We do not claim that such an innovation will fully and immediately achieve complete internalization, but we do think that significant improvement on the current situation is possible through such an approach.

Thus the organization's central objective would be to facilitate cross-country deals on environmental issues with the aim of raising environmental quality. These deals are in our view unachievable with present institutional arrangements, which have proved themselves inadequate to the task. For a WEO to do this, a variety of impediments to such deals have to be addressed, including property rights ambiguities, free riding, and verification and enforcement of contracts. We would also see a series of spin off benefits that can also be realized from meeting this central objective, such as underpinning domestic environmental policies, and particularly so in developing countries.

The creation of such an institution presupposes sufficient political demand being in place for it, that it is believed that it will perform a new and key function in improving global environmental quality, and that it is different from that already motivating existing institutions.



Our purpose in this section is to sketch some possible functions of such an institution, rather than to indicate the precise political process through which it may come about, although with joint gains stemming from its creation we would argue that it should have positive momentum. Depending on the scope, mandate and powers of the institution, a variety of coalitions could emerge in supportive, or even veto, roles (Porter and Brown, 1996).

### ***2.1 An Initiator for Cross Country Internalization Deals***

The central function for a WEO is to act as a catalyst in generating internalisation deals between countries (and/or groups of agents within countries) on global environmental issues. Deals would involve verifiable environmental commitments being exchanged between a range of factors across countries in return for various considerations, including cash. The deals could be government to government deals of various kinds, or also involve private sector agents (companies, representatives of community groups) in various ways.

Thus, a government in country X with no rainforests, might strike a deal on behalf of its citizens with a government of country Y with rain forests to the effect that, say, a specified fraction of land in country Y would remain under forest cover for a specified time period (20 or 40 years, say). In return for this commitment, the government of country X would pledge to transfer a sum of money to country Y at the end of the period. The commitment would need to be verified in some way, and country Y would need to achieve on its residents. This could be through logging bans, export taxes on logs, logging licences; or other internal arrangements.

Alternatively, a group of concerned citizens in country X could negotiate independently of their national government with a community group having custody of an environmental resource in

country Y. They might again agree to a transfer of financial resources directly to the group at the end of a time period if a particular environmental target is met (again, say, forest cover). Issues of verification and compliance would also arise in both cases.

Deals in other areas would follow a similar structure to those set out above for forests. For species, the target might be in terms of species populations by a specified target year. For biodiversity, it might be in terms of access to undisturbed lands guaranteed over a period of time. For coral/oceans, it might be in terms of the portion of unimpaired coral in coastal waters. For carbon emissions, it might be in terms of a maximum emission level from the country over a time period, or (as in the Kyoto protocol) as cutbacks from emission levels. In water, where there are international disputes over flow rates through territories and water quality indicators, these can be bargained in return for considerations as above. Toxic waste commitments could be bargained in terms of annual levels of discharges. All these would constitute implementable and verifiable environmental targets, and could be bargained in a WEO for a consideration.

While some of these commitments are currently covered by treaty arrangements of various forms, a WEO would allow deals to go considerably further, and as such there seem no conflicts with existing treaties. If new WEO deals go beyond what is in treaties, the treaties simply become redundant. If WEO deals are not up to the terms of treaty arrangements, they will not be concluded.

Deals would likely span on both sides groups of countries with similar interests in the environmental resource. Countries or country groups trying to deal on their own would encounter the free riding problem that some of the benefits of the deal would accrue to others. Deals made by only subsets of affected parties would be difficult to conclude if the fraction of the total global benefit accruing from another deal is small. A further strength of a WEO is its potential ability to orchestrate

simultaneous deals across groups of affected parties. This will further raise the degree of internalisation of the global externality involved through the deal through crossovers, and reduce free riding.

The effect of these deals will be that those agents who are the source of global environmental damage will take into account the costs of the damage they create through their own private decisions on others abroad. Species and forests will be protected in the interests of foreign consumers, who in turn will pay for environmental quality improvements. Carbon emitters will take into account the costs incremental climate change inflicts on others; deforesters will take into account the incremental loss in global amenity value and habitat loss to others. Compensation will be paid to custodians of assets in the case of forests, or emitters in the case of carbon. Explicit bargained arrangements involving both governments and non-governmental groups will thus reflect negotiated Coasian deals in which property rights dictate the direction of payment for reduced environmental damage.

## ***2.2 A Weakener of Impediments to Internalisation Deals***

An aim of a WEO is to weaken those impediments which currently exist to internalization deals on the environment. It is often pointed out both that side payments do not occur to any significant degree in existing inter country environmental arrangements, and that financial resource transfers from OECD countries (where demand for global environmental quality is high) to lower income countries with significant endowments of environmental assets are small, and do not take place on a regular basis. If they occur, it is usually as a result of a country being a signatory to one of the global treaties such as the Framework Convention on Climate Change, rather than as a

negotiated environmental deal focussed on internalisation. This WEO proposal explicitly aims to use bargaining to get resources flowing in the global economy so as to secure improved global environmental quality.

The relative absence of negotiated arrangements which underpin environmental arrangements seem to have occurred for good reasons. One is time consistency with the implementation of environmental deals. If, say, Brazil were to promise to restrain deforestation over, say, 40 years in return for financial inflows; then if the funds were paid immediately Brazil could request more funds after initial receipt. But if funds were paid at the end of the period, Brazil would have no assurance that payment would be forthcoming. An arrangement entered into by one government may also not be honoured by a later government which is either unwilling or unable to fulfil the terms of the agreement made to another state. For these and other reasons, some form of intermediary guarantor of Coasian deals seems needed by both sides to reduce the risks involved in bargained environmental transactions. A WEO can act as such a guarantor by receiving funds for deals agreed to and holding them in escrow, pending execution of the commitment. If the environmental target is deemed to be met, funds would then be released to the country or group making the commitment, and if not returned to the country or group pledging the funds.

Problems of verification and compliance are a second. Who ensures that a pledged environmental target has actually been met, and what are the remedies if this is not the case? Under a WEO, staff could monitor compliance on environmental commitments, and make determinations of whether or not commitments have been met. These, in turn, would require undertakings from parties to deals monitored by the WEO to accept WEO determinations, and a system of dispute resolution and appeal. A set of agreed procedures for verification would, of course, be needed first.

Free riding is a third problem area. If countries, or groups within countries, have existence value over forests abroad and if bargained environmental deals were bilateral, countries could free ride on each other's deals, since the benefits to the deal accrue to countries rather than those that are party to the deal. Free riding greatly undermines the ability of environmental deals to be struck at a global level, since the benefits of any pair of bilateral actions are spread much more widely. For example, all OECD countries may benefit from a species population target negotiated in, say, Cameroon by, say, Germany (or a German NGO). A WEO can help countries capture the benefits to others from free riding through multilateral rather than bilateral deal making; with packages of environmental deals being put together in rounds of negotiation, much as the WTO utilizes cross-overs of benefits in one area and costs in others in allowing countries to conclude mutually advantageous deals on trade barrier reduction. A WEO can even aggressively seek out deal making opportunities by proposing a package of deals to consortia of interested parties, and in this way reduce free riding benefits.

Finally come difficulties in putting together the coalitions for deal making aimed at reducing transactions costs. Often it is difficult to determine the benefits from deals, and hence who should be approached with deal making proposals. Preferences underlying deals need to be estimated and represented; and revealed willingness to pay measures are hard to put together. Parties to deals typically have little information on what deals may be worth to other parties, and hence how to negotiate. Who assesses and acts on behalf of the collective willingness to pay in OECD countries for global environmental improvements? If it is to be national governments, how they are to do this and with what effect? A WEO can play a role by undertaking studies, producing willingness to pay

estimates for enhanced global environmental quality, setting out scenarios for deals, and orchestrating and stimulating the process with information.

### **2.3 *Extending and Deepening Treaty Commitments***

Although we would see other possible activities for a WEO as supportive rather than core, they could also bring benefits globally. One activity for a WEO might be to bring all existing cross country environmental treaties under a single umbrella, with the idea of adding transparency, and broadening and deepening existing commitments. New exchanges of environmental concessions across areas might also be possible as a result of this. Commitments in the form of binding standards, for instance, could allow for exchanges of environmental concessions, much as in the WTO. More innovative treaty arrangements might also allow for more progress to be made on the issue of side payments, which has long bedevilled international environmental agreements. It is possible that side-payments under a centralized and expanded Global Environment Facility could even be further developed. By creating multiple systems of obligations and cross commitments, more cooperation between parties might be achieved, and incentives to free-ride reduced.

A WEO could also avoid duplication and help provide information, to speed negotiations. For example, rather than having a forests protocol as part of a Climate Convention as some commentators have suggested (Sebenius, 1994), it may make more sense to have forest negotiations coordinated by a WEO and avoid repetition of debates that have already taken place in negotiations towards a Global Forests Convention. Hence, a WEO could initiate a process of rationalizing institutional functions in the global environmental area.

#### **2.4 *Facilitating environmental/non-environmental policy linkage***

By bringing global environmental arrangements under a single umbrella, a WEO should also make it easier for cross country concessions to be exchanged between environmental and non-environmental areas, potentially leading to both a stronger environmental regime and gains elsewhere. Thus, developing countries might make concessions on their environmental management in return not only for cash but also improved trade access (say, in textiles and apparel). A problem in making such concessions is how to do this within the existing patchwork quilt of global environmental arrangements, and by systemizing these a WEO could facilitate bargains of this kind.

A WEO can thus be seen as a parallel and expanded bargaining framework for country and group concessions. The WTO involves bargaining concessions on trade barrier reductions and bindings, but no cash is exchanged and only national governments may bargain. The WEO goes further; cash for commitments is allowed, and bargains are not restricted to national governments. Linkage to non environmental issues, while a second or third step, implies that bargaining need not be restricted to cash compensation for environmental commitments; a wider forum for global bargaining could evolve from the WEO, encompassing both the WTO and whatever issues groups want to exchange concessions on.

Developing countries have been cautious over such bargains, arguing that they should be compensated for undertaking environmental restraint of the form sought by OECD countries, and fearful that a willingness to bargain indicates both a relaxation of this position and, implicitly, a concession on property rights. But the opposite is true in that a WEO allows them the opportunity to take advantage of their property rights and obtain resource transfers for environmental restraint.

Thus, by providing institutional support for bargaining across issue-areas, incentives to cooperate would be multiplied, and the basis for global environmental cooperation significantly broadened.

## **2.5 *Property Rights and WEO Environmental Deal Making***

A key impediment to global environmental deal making in a WEO will likely be the ambiguities often involved with property rights in the global environmental area. Ambiguities can arise both across countries, and within countries. Across countries, national governments often assert their implicit rights to regulate and protect economic activity, involving different claims over environmental assets. OECD countries often argue, for instance, that the forests are the lungs of the earth (globally communal property) and thus they have rights to, say, block imports of tropical lumber until improvements in environmental quality (forest cover targets) occur in exporting countries. Developing countries with forest cover argue that this is eco (or green) imperialism which forces them to slow their growth and development, and yields environmental benefits mainly to wealthy countries. They instead argue they should be compensated for showing environmental restraint over the use of their own environmental assets. The property rights issue is whether forests are a global or a national asset.

Within countries, there are also substantial ambiguities as to property rights over environmental assets. Some countries have multi-level government registration of ownership (national and provincial) which produces conflicting claims, which courts often do not adequately resolve. Native peoples may have various rights to bio species, even if formal land rights are held elsewhere. Squatters, in some countries, exert *de facto* property rights over species, forests, and biodiversity.



For a WEO, this raises difficult questions of who is to deal with whom to generate environmental quality enhancing deals. Coase argued that clear assignment of property rights is needed before any environmental deal making occurs, and a central task for a WEO is to help to clarify property rights to facilitate such deals. This will not be not easy, although some cases appear more straightforward than others. Where multiple land registration schemes operate, a WEO could help simplify and consolidate them. Where non-timber rights to forests arise, a WEO might codify them and bring them in as part of the deal making. Across countries, a WEO could accept that *de facto* rights devolve to the country with assets on their territory, and short of invasion, bargained compensation would seem to be the only practical way forward, although this involves effectively ceding currently contested property rights over environmental assets in developing countries. The operational principle, in the absence of clear international courts with authority to rule on such rights, would seem to be that custody of assets yields ability to bargain, and that bargaining becomes more satisfactory as an internalisation device, the more secure the custody is.

Also, some environmental conflicts at international level are themselves primarily about property rights. Water conflicts, where one country controls the headwaters which flow to other countries further down the river, are one. Here negotiated deals, say to maintain water flow relative to target levels in return for other concessions, can be WEO brokered deals.

We do not suggest that a WEO could definitively resolve all international property rights issues, which Coase anyway suggested lie outside of formal economics and rest on arguments of natural justice. The aim would be both to contribute to the alleviation of some of them and to work with *de facto* rights on other cases through existing custody of assets. Property rights related problems partially explain why cross-country deals on environmental issues have been science based

lowest common denominator in outcome, rather than Coasian in character, and why property rights issues would have to be a part of WEO activity. Documenting existing overlapping and inconsistent property rights where they occur may help resolve the situation. Suggesting ways to proceed where property rights are contested may also help.

## ***2.6 Using an international structure to underpin domestic environmental policy***

An international environmental entity such as a WEO could also usefully lend support to those domestic groups (including NGOs) trying to raise levels of compliance with domestic environmental laws. Government in countries with such problems may be able to use the WEO as a masthead which politically supports domestic policy change in the environmental area.

A WEO might also consolidate the information clearing-house functions of the Commission on Sustainable Development (CSD), which collects and reviews information about parties' fulfilment of their obligations and build a wider range of information sources again underpinning domestic policy. It could also help build institutional capacity in less developed countries based on a recognition that in the past compliance has been hampered by administrative weakness and poor institutional infrastructure.

In sum, then, a WEO could undertake activities that underpin Coasian environmental deal making on a global scale. It would have no power to conclude deals; these would be for national governments to decide on; but proposals for deals, mechanisms to support deals, arrangements to enforce deals; all would be the bailiwick of the WEO. The central aim would be to redress failures of

international negotiation over the years in international environmental policy making that moves the global economy closer to achieving fuller internalization of global environmental externalities.

A WEO could act as an intermediary on deals of the type sketched above, receiving and holding funds until determinations are made as to compliance (with either transfers to the custodian country, or return to the other country). A WEO could also provide verification as to whether the terms of deals have been met, and act as a dispute settlement and arbitration vehicle. This would go much further than the CDM which initiates and oversees North-South transactions on climate change with oversight by the Conference of the Parties. A WEO could be proactive in identifying areas and countries between whom deals would make sense, even to the point of initiating proposals. It could coordinate single country offers, and explicitly seek to internalize free riding in the deals it brokered. It could propose mechanisms to be used in countries to assess and reflect collective willingness to pay.

### **3. THE POSSIBLE FORM OF A WEO**

We envisage a WEO as an organization with a head office and staff, and a governing council along with a chief officer of some form. The mandate of the WEO would be to facilitate, encourage, administer, and take actions aiming to advance cross country negotiations on the environment, whose effect would be to raise environmental quality globally. The coverage would in principle include all environmental issues on which agents wanted to strike deals, although we would expect the main focus to be on areas such as species, forests, biodiversity, oceans, climate change and others with a global dimension. Environmental issues within countries, while clearly extremely important can also be dealt with by internalisation efforts in their own countries. More localized issues such as acid rain, water disputes and others where only a small number of countries are directly involved we would see as more likely to be resolvable through a process outside a WEO, since the impediments to successful bargaining are fewer.

There would be no set format for negotiations, and no principles or general rules to which arrangements would have to conform. Environmentally promoting arrangements would be concluded both at a country to country level and also involving groups within countries (NGO groups, consumers, companies). Whether subnational groups could oppose deals entered into by their own national governments within the WEO, and if so how, would also have to be decided upon. Our inclination would be to treat these as issues to be resolved within domestic political process. Deals that are concluded would be notified to the WEO, who in turn would undertake to be involved in whatever elements of administration that are required (verification, financial guarantor).

All countries who are members of the World Environment Organization would have a seat on its governing council, and would sign a protocol of accession committing them both to engage in

creative pursuit of environmentally improving arrangements and to uphold all WEO decisions (including on execution of deals). The Council would notify member countries of the facilities a WEO offers to promote environmental deals. These would include verification, property rights clarification, and intermediation of financial arrangements necessary for environmental deals. The Council would instruct staff to develop proposals for implementable deals, with full information as to how they might operate and be applied in various circumstances. The Council could also instruct staff to aggressively seek out possible deals, to the point of proposing various cross-country arrangements.

To further propel forward environmental deal making, the Council could initiate and call for negotiating rounds on the environment. Because of the free rider problems with bilateral deals, a negotiating round in which a series of deals were negotiated simultaneously would likely make more progress than through stand-alone arrangements. Unlike in the trade case, with global externalities the effects of deals are automatically extended to other countries; i.e. MFN is automatic.

The WEO Council, if it so wished and obtained member country approval, could move into other dimensions of global environmental deal making. It could initiate negotiations aimed at streamlining and codifying the separate environmental treaties that now exist. It could suggest exploration of possible cross-linkage negotiations (say, trade and environment) with countries testing out what non-environment concessions may be attainable for what degree of environmental commitment. The Council could also explore whether commitments in the WEO might help underpin domestic environmental policy. Whether such actions by a WEO Council would require unanimity, or simply a majority vote by country members is clearly an issue for the development over time of a WEO.

Such an institution will clearly be shaped both by its Council and how events unfold. In setting out our view of a WEO we see a possible progressive graduation from weaker to stronger forms as the likely outcome. Such an entity in its strong form is unlikely to be implemented quickly, and the demand for it will, as much as anything else, reflect the level of concern over global environmental quality and the global costs stemming from a lack of internalization. Here, we set out three variants of a possible WEO which progress from weaker to stronger forms, and which we suggest could be implemented progressively moving from one to the next.

### ***3.1 WEO Variant 1***

This structure would begin as a minimal negotiation facilitation arrangement, with no activist attempts by Council (via staff) to seek out possible agreements, or to actively promote deal making. It would have a permanent Staff and Council. The costs of the organization would be covered either by contributions from members, or fees charged to parties to deals as payment for service. It would have clearly developed procedures for the verification of commitments made in environmental deals. It would also develop procedures for holding funds committed to deals in escrow accounts, and procedures for the release of funds upon successful verification.

This first stage of WEO activity would lay the foundation for more aggressive deal making to follow. On other fronts, the WEO could provide an umbrella for existing international environmental arrangements and a framework for hopefully enhanced negotiations on them. It could provide new impetus for environmental negotiation by drawing on best practice across different states, injecting new ideas and solutions into various negotiations and locating potentially fruitful future cross-issue

linkages (which in this version of the institution could also be carried out bilaterally and independently rather than only through the WEO) to spur speedier decision-making.

### **3.2 *WEO Variant 2***

This would effectively be the WEO proposal above plus some incremental elaborations. One could be the more aggressive pursuit of environmental deal making by the WEO Council (and staff).

Another could be the explicit binding of minimum standards in existing environmental agreements. This could also provide a framework for exchanges of concessions on standards in the environmental area, beyond the environment deal making highlighted above. This could be through negotiations in which some countries commit to one standard while other countries make commitments elsewhere through other standards they sign on to.

### **3.3 *WEO Variant 3***

This would be the WEO Variant 2 above plus further add on elements. An arbitration/mediation facility for possible conflicts over non- environmental arrangements (trade/WTO, for instance) is one possibility. This would mean that any environmental negotiations with implications in other areas (such as the trade area) would engage non-environmental actors (the WTO) and seek agreement to an arbitration process for any possible conflicts prior to adoption. Equally, trade agreements with environmental impact could be subject to arbitration and go through a similar process involving the WEO. Such an arrangement would involve the agreement of both WEO and WTO members, and could only be worked out in detail after the creation of a WEO. This

form of arrangement is discussed in Uimonen and Whalley (1997), and ideas in this direction are also presented in Esty (1994)

This variant could also provide for a packaging of existing agreements for cross issue negotiations (for example environmental strengthening for trade concessions). The WEO could oversee the negotiation and implementation of cross-issue agreements. This version of a WEO could also consider cases of non-compliance with international agreements and coordinated international actions by all parties could be orchestrated to remedy non-compliance. The central thrust for the WEO arrangements, however, would remain that of achieving internalization, and negotiated concessions by affected parties which move towards this end.

### ***3.4 Country and participant coverage***

With a minimal WEO involving no formal rights or obligations for members, the presumption is that a WEO would simply exist as an agency making its offices available to those who want to use them. These would include both national governments and NGO and other groups within countries. In the absence of initial widespread participation in environmental deals, only those countries and groups most directly affected by particular issues would participate. On the other hand, the prospect of financial reward could serve to broaden participation to a sufficient number of countries to allow the WEO to operate effectively. In the first instance, a WEO may require relatively few deals to be agreed for net benefits to accrue providing the larger countries participate.

A key issue will be which groups are allowed to participate in the organization. For now we envisage the major role to be played by national governments, but NGO's and other domestic groups could also participate. The WEO will seek to produce exchanges of concessions by parties to an



agreement, and each party will have to implement their commitments or the deal will not be executed. But conflicts would arise when groups wish to oppose deals; such as opposition to national governments from domestic groups. The presumption is that in making deals governments would have to engage, or otherwise engage opposition groups in dialogue and discussion. As all deals will have to be authorized by the WEO council, the Council would have to develop procedures for determining when such deals are not confirmed due to domestic opposition.

### **3.5 *Topic/area treatment***

Another issue is whether a WEO would seek to cover all environmental issues, or only those which are global, i.e. whether localized forms of pollution and degradation would also be within its remit. We would see the initial list of issues as dominated by species, biodiversity, carbon emissions, forests, ozone, water; and to be broadened from there to include issues on which commitments could be made and exchanged. The initial emphasis would likely be on global issues where the impediments to deals are the largest; since within countries domestic process could provide internalization initiatives. For issues affecting only a small group of countries, it seems more likely that internalization could anyway occur.

Some issue areas may lend themselves more easily to bargained transactions, with ongoing scientific input indicating the most pressing as well as amenable environmental problems. The WEO could attempt to set priorities for deal making in areas where there is agreement that action is required. Where property rights are unclear, such transactions would be more problematical and simpler forms of bargained agreements may be more difficult to achieve. This could be the case with marine pollution, for example; where the issues at stake go beyond the sovereign jurisdiction of any

one state. Global commons issues where all contribute to the problems and all suffer its consequences are also more complex and might still be addressed within a WEO, but by joint negotiation, including side payments to countries. In the short-term, transactions where control over resources is clear would likely be more feasible to attack through Coasian deals. In the longer-term deals with a larger number of parties may be feasible, although clearly establishing the contractual terms across a number of parties adds complexity.

### ***3.6 The Constitutional Structure of a WEO***

A range of issues also arises for a WEO with regard to its constitutional structure. Would it be governed by a council? Would a Council need to approve all negotiated arrangements, and verification determinations? What would be the membership of the council and its voting structure? How often would meetings of the council occur?

One possible governance structure is as set out above, namely, that all countries who are members of the WEO would have a seat on its sovereign Council. Parties would then be expected to sign a protocol of accession which outlines their commitment to pursue the goals of the institution and abide by its decisions and working procedures. The Council would be the main channel through which transactions were conducted and overseen once in place. The Secretariat would be under the direction of the Council, who would approve of all proposals to initiate deals. The form of the institution would also depend on the type of WEO which emerges. The Council structure proposed above, would seem appropriate for a minimal deal promoting WEO, but stronger versions of the institution might require more comprehensive powers.

### **3.7 *Resource requirements***

The resource requirements of a WEO would clearly be an important issue as would whether funding would be through user fees or member contributions. Given the likely uneven use pattern by members, a system of user fees seems the most appealing.

If stronger versions of the WEO were to emerge, a new tier of international bureaucracy would be required to oversee and coordinate international deal making. The level of surveillance that such an organization would be expected to undertake in order to fulfill its mandate of verifying transactions, and the number of staff required to carry out these functions, could demand a significant budget. The political willingness of key countries to fund such an arrangement obviously looms large.

A unit coordinating and overseeing transactions may be more feasible in terms of the size of funding required. The scope of the mandate of the institution, would dictate both the human and financial resources required, as well as the degree of public support it would need to operate effectively. A WEO would need to justify expenditures by itemizing what it adds to existing international environmental arrangements; strong case may have to be made that it supplements the roles already performed by institutions such as UNEP and the CSD.

For the WEO envisaged above, there would be a secretariat, and a permanent home and administrative centre for the organization. Depending on the functions which the WEO would perform, there might also be need for national branches of the WEO. These would need to be supported by the central WEO office, but would need to facilitate national capacity building for implementation. This would be essential in ensuring that determinations made by the WEO regarding compliance with commitments made were broadly acceptable.

The scale of this task and the potential resource commitments should not be underestimated. And if there is a lack of civil society support for such institutional transformation, and a lack of state capability to enforce the terms of agreements adjudicated by the WEO, the change which a WEO alone might be able to achieve could be limited. Everything will hinge on the severity of the perceived need for the institution, and the acceptability of its processes.

### **3.8 *Time frame***

We do not anticipate major difficulties with the time frame needed to establish a WEO. A WEO could simply allow parties to become members when they are ready and willing to engage in transactions. With conventional treaty arrangements there is either a single entry into force, or it is staggered in some way (for instance, according to level of development as is implied by the Climate Convention with the annex system). But, if a group of OECD countries were concerned about deforestation, they could approach the WEO offering funds to cover projects aimed at slowing the rate of deforestation. It would then be up to members to either accept the money on the basis offered. Problems of getting every party to sign on at the same time to an agreed format, or working out the criteria by which parties acquire commitments on different time-scales are avoided.

Although there may need to be a critical mass to successfully launch a WEO, parties would participate as and when they were willing to serve as parties to these transactions. In the early stages of a WEO it is possible that short term projects would be the most common on the basis that they avoid the risks associated with possible and subsequent institutional demise.

### **3.9 *Tiered commitments and the developing countries***

Dealing with the perception that most environmental initiatives are driven by the North is perhaps the most central implementation challenge facing a WEO. Agreements on forests and climate change have illustrated this problem, where developing country governments have resisted what they see as the imposition of Northern definitions of environmental problems (Chatterjee and Finger 1994).

Pertinent for a possible WEO is the experience with debt-for-nature swaps, which generated resistance from many southern governments on the argument that they were a deliberate attempt to exploit the economic vulnerability of poorer states as a way of advancing the goals of the North, as well as a threat to their autonomy. Even where there exists an economic incentive for participation, broader political sensitivities may thus act to complicate the negotiation of North-South deals. The WEO may be able to circumvent some of these problems by encouraging Southern countries to take a proactive lead in offering up commitments and programmes that Northern groups may want to fund.

A key issue will be whether there should be special treatment for developing countries, and if so, what form of special treatment. In the form a WEO is set out above, and in which internalization transactions are negotiated, differentiated commitments between and among North and South seemingly become less relevant. The now widely used description of common but differentiated responsibility has been one approach advocated for separately defining the obligations of North and South on environmental issues. But if the WEO acts to facilitate transactions and monitor compliance, guidance offered as to which deals offer the highest return for the international community would not seem to offer room for differentiated rights and commitments. There is little

need to set out specific rules for negotiations, and this approach could be a way of bypassing lengthy negotiations on tiered arrangements which have stalled previous attempts at environmental improvement at the international level. By involving fewer parties, it may also allow for a shorter time lag between brokering a deal and overseeing its implementation.

Balance (in terms of representation) will be important to the WEO, since the North has made it clear in the past, most notably in the GEF, that it will largely decide which projects to fund. In acting as an arbitrator and intermediary, the WEO will need to stem fears about developing countries seeking backdoor aid, and about the North seeking to control the development of the South. By introducing trade into environmental bargaining, more immediate gains through trade concessions could also accrue to both developed and developing country negotiating partners, so that longer-term sacrifices would be rewarded with shorter-term gain for the recipients. The WEO could also strengthen the domestic negotiating position of those in favour of taking environmental actions. By working with NGOs and providing supportive coalitions with strategic information, a WEO could help consolidate the power of these groups in favour of cooperation on environmental initiatives through the WEO. For governments interested in cooperation but fearful of the domestic political price, a WEO could serve as a focal point of blame for initiatives which fail, allowing governments to retain credibility even in the light of implementation failures.

The bottom line seems to be that opportunities exist for the developing countries in a WEO in generating inward financial flows to speed development, in return for various environmental commitments by them. There are, however, many political impediments to the use of a WEO in this way, and these will need to be confronted and overcome.

### ***3.10 A WEO and the Bretton Woods Institutions***

A possible WEO will coexist with other pre-existing global economic institutions, and whether it duplicates functions of other agencies, or creates new conflict will be an issue. Our present global institutions were cast in the 1940s when environmental issues were of limited profile compared to today. Today the trade and environment debate, which has largely centered on the treatment of environmental issues under the World Trade Organization (WTO) to date, has fuelled pressures for change. A view sometimes expressed is that as an issue addressed by global institutions, environment has lost out in the global stakes by being the latecomer. One reaction sometimes heard is that if we have a World Trade Organization, why not have one for the environment.

The Bretton Woods post war system reflected the post war thinking that issues of economic interdependence between countries largely came down to issues of trade and international finance. The IMF was to provide financial support to countries with exchange rates under pressure so as to underpin fixed exchange rates (set at "realistic" parities); the World Bank was to provide infrastructure and longer term development capital to help developing countries grow and develop; and the GATT was to agree a system of trade rules and facilitate negotiations to liberalize world trade further.

As is well known, the functions of these agencies have themselves changed over the years, but the underlying presumption that economic interdependence only (or largely) relates to trade and finance has remained unchallenged until very recently. The notion that cross border environmental

effects (or global externalities) should enter global system design has not until recently (as far as we are aware) been raised. And today, the focus is largely on how environmental issues can be accommodated with the existing structure (principally UNEP and CSD, the World Bank and the WTO), not how a new organization for the environment should be focussed. This is despite the fact that, in the 1940s, these agencies were not designed to deal centrally with environmental issues. While environmental issues have become an add on to the lending practices of the World Bank, and an issue which in the WTO seemingly conflicts with the goal of unrestricted free trade, they have not generated the institutional transformation that perceived problems arising from unregulated trade and finance have in the past.

Global institutional change, however, does typically not occur simply because of arguments based on consistency or symmetry. It is usually the presence (or perception) of concrete problems which the institutions are thought to help alleviate that drives change. With the Bretton Woods institutions, it was clearly the memories of the 1930s and linkage to the military conflict which followed which drove their creation. The 1930s were characterized by high retaliatory tariff barriers and competitive devaluations; a clear lack of international cooperation which helped drive the global economy into a destructive depression. The IMF and GATT were, in large part, a response to these problems; but were also seen as helping rebuild a war ravaged global economy. The emergence of a World Trade Organization happened only slowly and built on the aborted negotiation of an International Trade Organization in the late 1940s.

What a WEO would do is quite different from other international agencies. A WEO is not a WTO applied to the environment; it is not UNEP, or UNCED or another UN body; it is not comparable to what the World Bank, regional Banks, the OECD, or anyone else does on the



environment. It is an agency designed to help remedy a specific problem; the relative lack of internalization of global externalities.

The relationship between a WEO and the WTO would come under special scrutiny were a WEO to be created. In being a bargaining framework, there are no formal conflicts between the two that this creates. No additional rights or obligations are implied by WEO membership, and hence no inconsistency between WTO commitments and membership of the WEO. If in negotiating a WEO deal, a member committed to an action that was WTO incompatible, this would be subject to dispute resolution in the WTO just as say any other action outside the WEO would be.

Trade and environment issues would not disappear from WTO discussion just because a WEO were created. Pressures from environmental groups to rewrite WTO rules to allow the use of trade restricting measures on environmental grounds would continue, and remain focused on the WTO. Only if bargaining took place in the WEO which resulted in agreement to change WTO rules as part of a bargain would things change. In this case, WTO bargaining would partly shift to WEO.

Whether or not a WEO comes to fruition in the next decade probably depends upon the perceived severity of global environmental problems, whether a WEO is thought to alleviate them, and how a WEO is thought to fit into overall global system architecture. The experience with the WTO, including its creation at the end of the Uruguay Round, suggests the importance of exploiting the right window of opportunity for the creation of a new institution. A WEO, in our view, should not be seen as yet another Bretton Woods institution, but as something apart; a bargaining framework with no formal rights and obligations, an agency devoted to reducing barriers to negotiation.

In providing a broader bargaining framework through the WEO compared to the WTO, since cash transfers are permitted and rules which restrict bargaining (like MFN in WTO) are absent, there is the possibility that the WEO in the long run could even subsume WTO bargaining. Under this scenario, the WEO could evolve into a form of World Bargaining Organization, covering both environmental and non-environmental deals.

Clearly, a WEO would not exist in a vacuum, and while we emphasize the case for the creation of a new global environmental institution, it would be naive to think that its functions would not impact upon the activities of several existing global institutions. There is now a multi-tiered, multi-centered overlapping network of environmental governance, which would be part of the background to a new global environmental institution. The issue of inter-regime relations is likely to be hotly contested; which institution would take priority when there is a clash of mandates? What value would be added by the creation of such an institution? What would be the division of labour between the WEO, WTO, UNEP, CSD and regional and bilateral environment arrangements?

There is, as yet, no institution performing the roles of those we propose for a WEO. None of the existing institutions are aimed at achieving internalization of environmental costs. Most are either issue-based or project-focused, or they oversee different types of North-South transactions. There is thus no a priori need for their immediate reconciliation with a new organization. The issue is more one of the appropriate division of labor between these institutions, so that each performs the functions which suit it best. Clearly there will continue to be areas of overlap, and the WEO can usefully draw upon the experiences of other institutions to ensure that its work is as effective as possible, and does not repeat the mistakes made by other institutions. As the WEO evolves from an incremental deal making institution to a global power broker, it should to be expected that these

institutions will seek to accommodate themselves and realign their activities in the light of the changing mandates of other components of this new architecture.

One of the key institutions that a WEO would have to deal with is the UNEP; the body created as a result of the Stockholm Conference in 1972 with the environment as sole responsibility. The Rio Summit, and the recent reform-efforts under Klaus Töpfer, Executive Director, has reaffirmed its position as *the* environmental organization of the UN and changed its focus more towards being a source of funding (joint project of GEF), to some extent a facilitator of treaty-making, co-coordinator and assistant to (and host to some) treaty-secretariats, as well as an information clearinghouse<sup>3</sup> including mechanisms such as an early warning system. Internalisation is not put at the “heart and mind” of the organization, though, whether judged by UNEP publications or by efforts such as the Global Ministerial Forum, 2000, which produced the Malmö Declaration.<sup>4</sup> Moreover, the reform-efforts have, by and large, left problems of adequate funding<sup>5</sup>, standing (compare with the Bretton Woods institutions), and efficiency unresolved, and calls for a new organization have not stopped; add to this lack of focus on the fundamental issue of internalization. Hence, a weaker version of the WEO would not duplicate the work of UNEP, but rather focus the global environmental regime on addressing the central global market failures of the environment. A

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<sup>3</sup> A strengthened original function.

<sup>4</sup> Although, for instance, UNEP’s Global Environmental Outlook 2000 recognizes the need for internalization, via mechanisms such as establishment of property rights, it and other key documents produced during the last two years of reform-efforts, as well as statements made, fail to put this firmly at the top of the agenda.

<sup>5</sup> Funding of UNEP-programmes rely i.e. on voluntary contributions of members to the Environment Fund. In 1997 UNEP’s Executive Director, Elisabeth Dowdeswell, called upon members to reverse the trend of diminishing contributions for the organization to be able to manage the ever-increasing tasks imposed on it. Funding has increased but remains at a minimum-level (some US\$60 bn. Annually) where 1997-commitments only have been adjusted for inflation, according to Klaus Töpfer, current Executive Director. (UNEP 1999; Enviro News Service 1997).

strong version of the WEO would perhaps make it natural for the UNEP to be subsumed into the WEO, though.<sup>6</sup>

Another organization is the Commission on Sustainable Development; the institution created at UNCED to oversee the implementation of Agenda 21. By common agreement it suffers from bureaucratic weakness, lack of enforcement powers, and too broad a mandate (Dodds 1997). One issue facing the establishment of a new WEO would be whether to subsume the CSD or to encourage its continuation as inter alia a consultative or advisory body to the WEO. Depending on the form that a WEO were to take; it could perform discrete but complementary functions. In the initial stages of a WEO, the CSD could have the responsibility of overseeing the implementation of the Rio agreements as they now stand. Only if the WEO seeks, at a later stage, to coordinate and reconcile some of the existing environmental agreements which the CSD monitors, then a reappraisal of institutional competence would have to take place. Otherwise, the two institutions could proceed along different paths. The CDS does not oversee financial transactions or attempt to arbitrate conflicts in non-environmental areas in the way a WEO would. In serving as a clearinghouse of information and documentation on the state of the Rio accords, it could clear the way for subsequent WEO activity.

Another component of the existing institutional architecture is the Global Environment Facility (GEF). The GEF is perhaps the clearest embodiment of everything which concerns less developed countries about the global environment debate. It operates in much the same way that the World Bank does, on a cash for votes basis. It crystallizes a preference for aid in exchange for commitments from developing countries rather than trade, despite a clear preference for improved

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<sup>6</sup> Indeed, a number of distinguished individuals from e.g. governments and academia have jointly called for a new

terms of trade and acknowledgment that many forms of aid been ineffective. There is clear overlap between the GEF and a possible WEO, given the former's involvement in North-South transfers, areas that WEO activities may touch on. It specializes in technology transfer and projects associated with a narrow range of activities to further the goals of global treaties on, for instance, global warming, biodiversity and ozone depletion; while the WEO's mandate would be to achieve internalization over a broader range of issue areas. The same arguments apply to the Clean Development Mechanism, which, in principle, comes closest to the operating mechanisms of the WEO. But this body operates exclusively in the area of climate change, and this leaves ample scope for a new global institution operating different procedures in different issue areas.

One way of proceeding would be for existing environmental bodies to be subsumed in the WEO. This could, however, provoke resistance from the staff and users of the work of existing institutions, but could serve to avoid unnecessary duplication of workload. On the other hand if the WEO were to adopt the role of an initiator, negotiator, arbitrator and implementer of environmental deals, then its activities need not directly overlap with those of the existing institutions.

Finally, there is the issue of the relationship between a WEO and the WTO. Calls for a WEO, as we note in our introduction, have in part grown out of the trade and environment conflict in the WTO which has grown in profile throughout the 1990's. Those from a trade and environment background may tend to see a WEO as modelled on a WTO, but as the preceding discussion makes clear the problems each seeks to solve are different, and hence the two are at best only loosely related. Both are agencies which in varying ways seek to promote bargaining; one over trade and the other over the environment, but one seeks gains from trade while the other seeks internalization.

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Global Environmental Organisation where UNEP could be one main pillar (among others) (Esty et al 1998).

To the degree that the WTO would like to see a parallel agency as the focal point for environmental debate to take trade and environment pressure off the WTO, institutional support from the WTO for the creation of a WEO may be quickly forthcoming.

#### **4. CONCLUDING REMARKS**

This paper sets out our ideas on how a new global environmental bargaining entity, a World Environmental Organization, or WEO might work. Our starting point is the relative absence of mechanisms which achieve internalization of global environmental externalities, against a background of repeated attempts to define a global regime based on the principles inherited from Agenda 21. The outcome of present arrangements we see as a patchwork quilt of lowest common denominator arrangements from around 200 MEAs worldwide. These are limited in scope and often minimal in impact. We argue for the need for an international agency to facilitate deals between countries and entities within countries so as to support and underpin internalization. The intellectual underpinnings of such an entity are provided by the work of Coase (1960).

As much as anything else, we see a WEO as a facilitator of international deals on the environment which aim to raise environmental quality. In the past, concluding such deals have faced a range of impediments; ambiguous property rights, free riding, time inconsistency, verification, and incomplete financial intermediation. We see a WEO as striving for improvements in all these areas so as to facilitate environmental quality improving deals both globally and across countries. A global environmental regime based on mechanism design rather than principles is what we advocate, since the objective of internalizing environmental externalities seems to be clearly agreed.

No wide ranging proposal such as ours will be adopted overnight, and we recognize many impediments to it which we discuss in the text. But if global environmental quality worsens in the

years ahead, as many fear, perhaps these ideas will play a role in providing intellectual underpinnings, to institutional change in this area.

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