

Global Environmental Governance: The Post-Johannesburg Agenda

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On October 23-25, 2003, forty individuals from over fifteen countries convened at Yale University to discuss the state of global environmental governance. The meeting represented the sixth dialogue on this topic sponsored by the Global Environmental Governance Project of the Yale Center for Environmental Law and Policy. The meeting was convened a year after the World Summit on Sustainable Development took place in Johannesburg and represented an effort by experts from around the globe to assess the state of the debate following the WSSD.

Global Environmental Governance Functions

Conference participants identified a series of functions to be performed by the global environmental governance system. A wide variety of actors (including state governments, international organizations, civil society, and the business community) perform discrete and often overlapping elements of these functions. Conference participants specifically noted the need to balance these governance functions with the formal roles of national governments. Several of the identified governance functions currently are performed only at the national level and are difficult to “scale up.”

- *Legislative.* Four types of activities fall within the scope of the legislative function: agenda-setting, decision-making, implementation, and oversight of implementation.
- *Executive.* The executive function was defined as a leadership role. The global governance system needs to provide scientific, moral, political, and programmatic leadership.
- *Judicial.* The judicial function includes formalizing international environmental law, establishing linkages between international and domestic law, resolving disputes, assuring compliance, and ensuring procedural fairness for all parties.
- *Financial.* The implementation of environmental goals will require the cooperation and involvement of the financial community. Incentives need to be established to encourage investment in global environmental efforts.
- *Informational.* The governance system is responsible for creating and disseminating environmental knowledge to the global community. While this function may be subsumed within the executive/leadership function, the conference participants’ emphasis on science and knowledge justifies highlighting the informational function.

Obstacles to Successful Global Environmental Governance

Although specific obstacles are associated with each of the functions identified above, conference participants repeatedly cited a set of barriers, which are common throughout the governance system.

- *Function definition.* The actors in the global environmental governance system rarely specify or define the functions they perform. This results in confusion over roles and duplication of effort, as well as a lack of clarity regarding the appropriate functions of the overall system.

- *Fragmentation.* The governance system is plagued by both substantive and institutional fragmentation. This results in conflicting or indeterminate policy guidance, rule making, implementation, and enforcement. The problem is particularly acute for developing countries whose capacity to participate in multiple negotiation forums and implement complex international agreements is severely constrained.
- *State sovereignty and power politics.* Many elements of the legislative and executive functions are performed exclusively by national governments. This poses particular challenges to achieving implementation, compliance, and enforcement. Conference participants raised particular concern regarding the capability of powerful states to dictate the international environmental agenda and recognized that a reformed system needs to empower developing nations.
- *Lack of accountability.* The effectiveness of the current system for environmental governance has been compromised by the lack of clear accountability mechanisms and transparency provisions. With the increase of stakeholders and participants in the global governance process, the need for establishing accountability and transparency is even more obvious and urgent. In addition, procedural and substantive fairness can only be ensured through transparency and accountability at all levels of governance.
- *Lack of common vision.* While need for reform of the system is recognized, there is no consensus within the international community as to what the way forward is. Should UNEP continue to serve as the central structure for environmental governance in its current form, should it be upgraded to a specialized agency, or is a more radical change required? A substantive debate on what functions the global environmental governance system should perform and what results it needs to deliver is necessary before a reform agenda can be formulated.
- *New actors challenges.* The range of new actors in the global environmental governance system provides both opportunities and challenges. While the private sector and civil society are important voices in global governance, conference participants questioned whether and to whom these entities are accountable. They also recognized the need to construct governance mechanisms at the international level explicitly involving civil society and the private sector.
- *Sustainable development challenge.* The primacy of “sustainable development” as an organizing principle may be used as a cover for inaction on the environmental front and may position environmental issues as a secondary concern to development priorities. The environmental community must work to improve the environment-development connection and present a compelling case to the development community that the environmental agenda is critical to sound economic development.
- *Lack of idea creation space.* The international environmental community possesses few common “spaces” for development of new ideas and strategies. This limits the sharing of knowledge and lessons learned, as well as the development of trust and partnerships. There is a need for “safe havens” where environmental, development, financial, trade, and other experts may gather to discuss and elaborate ideas in a constructive environment.

Goals and Priorities for Strengthening Global Environmental Governance

Conference participants identified a series of steps and measures to overcome the obstacles identified above and fulfill the functions of the global environmental governance system. The goals identified below apply broadly across all governance functions.

- *Issue linkages.* Establish linkages between the environment and other international issue areas. Capitalize on strong, collaborative, ongoing processes such as the Millennium Development Goals.
- *Data and information.* In order to make informed decisions about policies and priorities, a strong, authoritative data gathering mechanism is necessary. Reliable and comparable information will allow the environmental community to develop indicators and link those to other critical issues such as health and poverty.
- *Local connections.* Facilitate the transition of international norms and policies into local, on-the-ground change. Focus on local implementation and capacity-building.
- *Collaborative efforts.* Increase opportunities for diverse actors to communicate and share ideas. Consider creating a single “campus” for negotiations and decision making or establishing an “environmental staff college” for training and information exchange.
- *New actors.* Involve a broader set of actors (including national government legislators and judges, as well as the private sector and civil society) in agenda setting and policy development at the international level.
- *Private investment.* Encourage national governments to promote investments in environmental efforts and programs. Perform environmental capacity-building within the private sector.

Action Agenda

Based on the discussion of the problems at hand, the functions to be performed at the international level and their linkages with the national and local context, the obstacles to be overcome, and the opportunities available, participants put forth a number of actions for the short and long term.

- *Evaluate a continuum of reform options and build consensus*
- *Evaluate other models for application to environmental governance*
- *Strengthen the role of parliaments and parliamentarians*
- *Link national courts to the international system*
- *Create a consultative body on environmental law*
- *Create an environmental appeals body*
- *Create and support a unified and efficient dispute settlement mechanism*
- *Create a “single space” for the international environment*
- *Engage universities in educating environmental leaders*
- *Establish an international environmental college*

The dialogue achieved significant progress in defining functions and priorities for the global environmental governance system. It set the stage for a continued dialogue on the issue of global environmental governance and marks the beginning of a series of conferences on the topic with subsequent events to be held in Paris, 15-16 March 2004 and in Berlin in 2005.