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Items 4 (c) and 6 of the provisional agenda\*

**Policy issues: international environmental governance**

**Budget and programme of work for the biennium**

**2014-2015 and the Environment Fund and other**

**budgetary matters**

**Relationship between the United Nations Environment  
Programme and multilateral environmental agreements**

**Comments by the secretariats of relevant multilateral  
environmental agreements**

**Note by the Executive Director<sup>1</sup>**

1. The report of the Executive Director on the relationship between the United Nations Environment Programme (UNEP) and multilateral environmental agreements ( UNEP/GC.27/6) presents an overview of the systemic aspects of the subject, a brief summary of recent examples of programmatic cooperation between UNEP and the relevant multilateral environmental agreements, a summary of the institutional arrangements with the selected multilateral environmental agreements for which the Executive Director provides the functions for the secretariats of the respective agreements, and a progress report on the issue of the accountability and the administrative and financial arrangements for the secretariats of the relevant agreements.

2. Since the adoption of decision 26/9 and SS.XII/1 by the Governing Council in February 2011 and February 2012 respectively, the UNEP secretariat and the secretariats of the multilateral environmental agreements have started consultations, jointly and bilaterally, on the issue of accountability and on a range of administrative and financial arrangements. However, consultations on these specific issues are still in progress and the progress report could only include preliminary information at the time of its preparation, as relevant inputs and comments from the multilateral environmental agreements are yet to be consolidated in a final, conclusive draft.

3. The secretariats of the relevant multilateral environmental agreements were invited to provide their comments on the issue of accountability and the administrative and financial arrangements, as well as inputs on programmatic cooperation between the individual multilateral environmental agreements and UNEP on 31 January 2013. In response to the above invitation, the secretariats listed below provided their comments by 14 February 2013:

Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

\* UNEP/GC.27/1.

<sup>1</sup> Issued without formal editing.

Secretariat of the Convention on the Conservation of Migratory Species of Wild Animals;

Secretariat of the Convention on Biological Diversity;

Secretariat of 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;

Secretariat for the Vienna Convention for the Protection of the Ozone Layer, and the Montreal Protocol on Substances that Deplete the Ozone Layer (Ozone Secretariat);

Secretariats of the regional seas conventions and programmes.

4. The comments are presented in the annex to the present note as received from the respective secretariats and without formal editing. They should be read together with document UNEP/GC.27/6.

5. Given the evolving nature of the administrative and organisational context in which the relationship between the UNEP secretariat and the secretariats of the multilateral environmental agreements is set, and the need to deepen the analysis and understanding on some specific issues, the Executive Director has instructed the relevant Divisions and Offices in the UNEP secretariat to conduct further consultations with the secretariats of the multilateral environmental agreements. In such ensuing consultative processes, the legal basis for the issue of accountability and the administrative and financial arrangements will be addressed in consultation with the United Nations Office of Legal Affairs. A consolidated progress report, incorporating the agreed conclusions and recommendations of the above consultations, will be ready for distribution to all Governments by 30 June 2013.

## Annex

### **Relationship between the United Nations Environment Programme and multilateral environmental agreements**

#### **Comments from the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)**

The summary to document UNEP/GC.27/6) on the Relationship between the United Nations Environment Programme and multilateral environmental agreements states that the Report:

...highlights the relationship between the United Nations Environment Programme (UNEP) and multilateral environmental agreements, with a view to further strengthening the cooperation and coordination between UNEP and those agreements, bearing in mind the outcomes of the United Nations Conference on Sustainable Development (Rio+20).

The CITES Secretariat notes that the UNEP Report was prepared as an internal document. MEA Secretariats were however invited by UNEP (in email correspondence dated 31 January 2013) to comment on the UNEP Report and were advised that their inputs would be provided to the UNEP Governing Council in an Information document, which is greatly appreciated. The CITES Secretariat stands ready to work together with UNEP during the course of preparing similar reports in the future.

Over the past three years, significant progress has been made between UNEP and CITES in clarifying their administrative inter-relationship through the conclusion of a delegation of authority in 2010 and a new memorandum of understanding in 2011 (see below). Progress has also been made in advancing mutually beneficial programmatic cooperation (e.g. the MEA Information and Knowledge Management Initiative co-chaired by UNEP and CITES) while respecting the autonomy of each entity and ensuring conformity with their respective mandates and comparative advantages.

The UNEP Report makes direct reference to paragraph 88 of the outcome document from Rio+20, The Future We Want, which addresses the strengthening of UNEP. The Report makes a brief footnoted reference to paragraph 89 of the same document when noting the widespread recognition of MEAs' significant contribution to sustainable development. It may be valuable to also refer to the rest of paragraph 89 of The Future We Want, which states:

89. ... We acknowledge the work already undertaken to enhance synergies among the three Conventions in the chemicals and waste cluster (the Basel, Rotterdam and Stockholm Conventions). We encourage parties to MEAs to consider further measures, in these and other clusters, as appropriate, to promote policy coherence at all relevant levels, improve efficiency, reduce unnecessary overlap and duplication, and enhance coordination and cooperation among MEAs, including the three Rio Conventions as well as with the UN system in the field.

In paragraph 89, States have emphasized the preeminent role played by the Parties to MEAs in addressing synergies between MEAs, and the CITES Secretariat will be guided by CITES Parties on the matter.

CITES Parties have to date addressed the issue of cooperation and synergies in several resolutions and decisions and it is such resolutions and decisions, adopted at meetings of the Conference of the Parties (CoPs) to CITES, that determine, authorize and guide the work of the CITES Secretariat on cooperation and synergies. Various existing resolutions and decisions on cooperation and synergies are summarized in a discussion document prepared by the Secretariat<sup>2</sup> for CITES CoP 16 (March, 2013). Moreover, the Government of Switzerland has submitted a draft resolution and draft decisions on cooperation and synergies among biodiversity-related conventions for consideration by CITES Parties at CoP 16.<sup>3</sup>

Paragraph 12 (a) of the UNEP Report correctly identifies paragraph 1 of Article XII of the Convention as the provision which requests the Executive Director of UNEP to provide a Secretariat for CITES. Initially, the Executive Director asked IUCN to assist him in providing a Secretariat. Thereafter, the CITES Secretariat was provided by UNEP, namely the staff were funded by UNEP, as were the administrative costs of the Secretariat. By virtue of decisions taken by the UNEP Governing Council in May 1979, UNEP no longer provides the Secretariat. UNEP (primarily through UNON) now provides administrative support to the Secretariat as well as the CITES Trust Fund. The CITES

<sup>2</sup> <http://www.cites.org/eng/cop/16/doc/E-CoP16-13.pdf>

<sup>3</sup> <http://www.cites.org/eng/cop/16/doc/E-CoP16-14.pdf>

Parties fully fund their Secretariat and pay UNEP for all administrative services through programme support costs.

The Executive Director of UNEP and the Secretary-General of CITES signed a delegation of authority on 1 October, 2010<sup>4</sup>, which was favorably viewed by the OIOS Audit of the CITES Secretariat released on 20 March, 2012.<sup>5</sup> After an extensive process of review, discussion and negotiation, the Executive Director of UNEP and the CITES Standing Committee, entered into a new Memorandum of Understanding (MoU) on 1 September, 2011,<sup>6</sup> which has provided greatly enhanced accountability, clarity and transparency. The CITES Standing Committee and the Executive Director of UNEP have corresponded on ways to ensure the full implementation of the MoU.

There appear to be some internal differences and possible inconsistencies within the UNEP Report regarding how MEA Secretariats are perceived and described. In paragraph 2, for example, it appropriately states that MEAs "are independent international legal entities, and are legally distinct from the organizations of the United Nations system". In paragraph 13 it further states that the "secretariat established by each of those conventions is an integral part of the institutional structure of the convention concerned" and that "conventions are independent international legal entities, which are not subsidiary bodies of any organs of the United Nations, and each operates with its own autonomy and is governed pursuant to the provisions of the convention and its parties through the governing bodies concerned". In paragraph 15 however it is suggested that these secretariats are "dedicated organizational units" which "still form an integral part of the institutional structure of the UNEP secretariat". Paragraph 16 suggests that "since the UNEP secretariat is an integral part of the United Nations Secretariat, any institutional arrangements for the Executive Director to provide the secretariat or secretariat functions for the relevant conventions have to be in line with the principles, rules and procedures of the United Nations, and in compliance with the administrative and financial regulations and rules of the United Nations as applied to UNEP" and paragraph 17 suggests that "the secretariat of the respective secretariats need to operate autonomously, while remaining within the institutional structure of UNEP." It may be worthwhile further reviewing the different terminology that is used to describe the relationship between MEAs and UNEP.

The CITES-UNEP MoU of September, 2011<sup>7</sup> states that the decisions of the CITES CoP alone guide the implementation of the Convention and its programme of work and direct the management of the Secretariat on all substantive issues. In appraising the work of the CITES Secretary-General the Executive Director acknowledges that the substantive work programme of the Secretariat is determined by the CoP and the Standing Committee of the CoP (SC) alone and he is obliged to consult with the Chair of the SC on the performance of the Secretary-General. The MoU further recognizes that the relevant rules and regulations of the UN and UNEP apply to the operation of the Secretariat.

With regard to the UNEP analysis of MEA governing body decisions (mentioned in the UNEP Report), the CITES Secretariat does not appear to have been consulted prior to its preparation and would note that none of the existing CITES CoP resolutions and decisions were called into question as part of the recent OIOS Audit of CITES. The CITES Secretariat stands ready to assist in any further analysis undertaken by UNEP.

The CITES Secretariat notes from paragraph 31 of the UNEP Report that UNEP and UNON are consulting on a division of labour. The precise interrelationship between UNEP and UNON (and UNOG) in the delivery of services for MEAs remains a work in progress, including the role of the Administrative Support Centre (ASC) in Geneva. These issues were raised in the OIOS Audit of the CITES Secretariat of 20 March, 2012<sup>8</sup> and by the CITES Secretary-General in a presentation to the UNEP Governing Council/GMEF in 2011<sup>9</sup>. The CITES Secretariat understands that a consultancy has recently been commissioned by UNEP to review the administrative arrangements in Geneva (between UNEP, ASC, UNON and UNOG) and it welcomes the opportunity to participate in this review.

In paragraph 30 of the UNEP Report, it may be more accurate to replace "starting from the accounting period which ends in 2014" with "starting with the 2014 accounting period". It is understood that incorporation of MEAs in the financial statements of UNEP may be incumbent upon a series of control conditions being met (following the UNEP-CITES delegation of authority and UNEP-CITES MoU model).

<sup>4</sup> [http://www.cites.org/common/disc/sec/delegation\\_authority.pdf](http://www.cites.org/common/disc/sec/delegation_authority.pdf)

<sup>5</sup> <http://www.cites.org/common/cop/16/Inf/E-CoP16i-13.pdf>

<sup>6</sup> <http://www.cites.org/common/disc/sec/CITES-UNEP.pdf>

<sup>7</sup> <http://www.cites.org/common/disc/sec/CITES-UNEP.pdf>

<sup>8</sup> <http://www.cites.org/common/cop/16/Inf/E-CoP16i-13.pdf>

<sup>9</sup> [http://www.cites.org/eng/news/SG/2012/20120221\\_UNEP-GMEF.php](http://www.cites.org/eng/news/SG/2012/20120221_UNEP-GMEF.php)

Paragraph 32 (d) of the UNEP Report refers to “seeking further synergies between the UNEP programme of work and the programmes of the multilateral environmental agreements for which the Executive Director provides the secretariat or performs secretariat functions”. This statement could lead to confusion between the administrative support function fulfilled by UNEP in relation to CITES and any programmatic cooperation between UNEP and CITES. These are separate and distinct matters and directly connecting the two in this manner has been a cause of tension between UNEP and the MEAs and their Secretariats.

UNEP’s closest programmatic cooperation with an MEA is with the United Nations Framework Convention on Climate Change, which is a convention that is not administered by UNEP. The CITES Secretariat suggests that the administrative relationship between UNEP and some MEAs not be used as a vehicle for pursuing programmatic cooperation, which is a separate matter for the Parties. Further, the MoU between CITES and UNEP clearly distinguishes between the two issues by dealing with them separately and distinctly in the MoU.

In relation to programmatic cooperation between CITES and UNEP, CITES is contributing towards the process of developing the UNEP Programme of Work and Budget, as appropriate (and noting the relevant paragraphs of the MoU)<sup>10</sup>, and welcomes the opportunity to enhance support for CITES implementation, in particular at the national level (for example through the UN Development Assistance Framework and the National Biodiversity Strategy and Action Plans processes), where it falls within UNEP’s mandate and comparative advantage.

It is worth noting that CITES is pursuing programmatic cooperation with many other partners within and outside of the UN system, including work with the Food and Agriculture Organization of the United Nations on aquatic species and work with the International Tropical Timber Organization on timber species – as well as through the activities of the International Consortium on Combating Wildlife Crime (ICWC), an initiative of the CITES Secretariat, INTERPOL, the United Nations Office on Drugs and Crime, the World Bank and the World Customs Organization<sup>11</sup>. This Consortium directly responds to paragraph 203 of *The Future We Want*.<sup>12</sup>

The CITES Secretariat greatly appreciates the opportunity provided to it to make these comments. CITES looks forward to continuing to work with UNEP in a constructive and collegial manner (as guided and directed by the MoU between UNEP and CITES) to further enhance their relationship from both the administrative and programmatic perspectives - while fully recognizing the autonomy, respective mandates, and comparative advantages of each entity.

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<sup>10</sup> And in particular paragraphs 35-40, with paragraph 38 stating that: “the Executive Director of UNEP to consult with, and fully involve the Secretary-General in, any projects and programmes that relate to the implementation of Convention and in any joint funding arrangements that include implementing the Convention...”.

<sup>11</sup> <http://www.cites.org/eng/prog/icwc.php>

<sup>12</sup> Which states, in part: “We recognize the economic, social and environmental impacts of illicit trafficking in wildlife, where firm and strengthened action needs to be taken on both the supply and demand sides. In this regard, we emphasize the importance of effective international cooperation among relevant multilateral environmental agreements and international organizations”.

## **Relationship between the United Nations Environment Programme and multilateral environmental agreements**

### **Comments from the Secretariat of the Convention on the Conservation of Migratory Species of Wild Animals (CMS)**

The CMS Secretariat is grateful for the opportunity to comment on the above-mentioned document, which was forwarded to the UNEP administered Convention Secretariats on 31 January, 2013, inviting our comments. The Secretariat was advised that its inputs would be provided to the UNEP Governing Council in an Information document, which is greatly appreciated. The following comments also incorporate inputs from the secretariats of the Agreement on the Conservation of African Eurasian Migratory Waterbirds (AEWA) and the Agreement on the Conservation of Populations of European Bats (EUROBATS).

Significant progress has been made between UNEP and CMS and its Agreements in clarifying their administrative inter-relationship, particularly through the conclusion of delegation of authority to the Executive Secretaries of CMS, the African Eurasian Waterbird Agreement (AEWA) and the Agreement on the Conservation of Populations of European Bats (EUROBATS) in 2011.

CMS Parties have addressed the issue of synergies and cooperation among Conventions in recent Conferences of the Parties. Their most recent guidance can be found in Resolution 10.21 *Synergies and Partnerships*.

Paragraph 12 (b) of the UNEP Report correctly identifies Article IX of the Convention as the provision that requests the Executive Director of UNEP to provide a Secretariat for CMS. However, this paragraph goes on to say that this Secretariat serves also as the Secretariat for AEWA and EUROBATS. In fact, these two Agreements are independent of the CMS Secretariat, while being co-located in Bonn and sharing a joint Administrative and Financial Unit. UNEP administers the Secretariats of AEWA and EUROBATS in accordance with their respective MOP Resolutions 1.1 and 3.1.

Through the CMS Secretariat, UNEP also serves as secretariat on an interim basis for the Agreement on the Conservation of Small Cetaceans of the Baltic, North East Atlantic, Irish and North Seas, in accordance with Resolution 2d of the 5<sup>th</sup> Meeting of Parties. A similar arrangement applies to the Agreement on the Conservation of Gorillas and their Habitats, as agreed at the 32<sup>nd</sup> Session of the CMS Standing Committee, and the First MOP of the Gorilla Agreement.

In paragraph 13, and elsewhere, the UNEP report refers simply to the “conventions”. However, in order to properly reflect the full complement of CMS related instruments, it would be correct to replace this with the terms “Conventions and Agreements” or “MEAs”.

Paragraph 26 of the UNEP Report states that a proposal for an MOU between UNEP and the Standing Committee of CMS was put forward to the Secretariat in November, 2012. But it was actually put to the Standing Committee, on the occasion of its 40<sup>th</sup> session, on 7-8 November, 2012, not to the Secretariat. However, the Secretariat acknowledges having received a draft of this document for comments, and these will be provided to UNEP shortly.

Paragraph 27 of the UNEP report omits to mention the AEWA Secretariat (representing also the CMS and EUROBATS Secretariats) was among those at the special session chaired by the Deputy Executive Director.

The CMS Secretariat is grateful to have had the opportunity to make these comments. CMS looks forward to continuing to develop its relationship with UNEP, both on programmatic and administrative issues, particularly with respect to recognizing the mandates, and comparative advantages of each entity.

## **Relationship between the United Nations Environment Programme and multilateral environmental agreements**

### **Comments from the Secretariat of the Convention on Biological Diversity (CBD)**

1. The CBD Secretariat is grateful for the opportunity to provide comments on document UNEP/GC.27/6 (Relationship between the United Nations Environment Programme and multilateral environmental agreements) and generally associates itself with those comments provided by the CITES Secretariat that are most relevant to the CBD and its Secretariat. We would like to highlight these areas of convergence, while providing additional comments to the UNEP Report as appropriate.
2. The CBD Secretariat associates itself with paragraph 2 of the CITES comments while emphasizing that it is eager to work together with UNEP during the course of preparing similar reports in the future.
3. The CBD Secretariat associates itself with paragraph 4 of the CITES comments suggesting the further development of the UNEP Report in relation to paragraph 89 of the Rio+20 outcome document.
4. Paragraph 12 (c) of the UNEP Report is accurate in its description of the designation of UNEP to carry out the functions of the CBD Secretariat. The revised administrative arrangements agreed between UNEP and the CBD Secretariat, and endorsed by the tenth meeting of the CBD Conference of Parties (decision X/45 annex I), clarify that the CBD Executive Secretary is accountable to the Conference of the Parties for programme delivery and that the CBD Executive Secretary is accountable to the UNEP Executive Director on administrative and financial matters as stipulated by United Nations and UNEP rules and regulations, as well as the financial rules for the administration of the CBD Trust Fund. A delegation of authority with respect to financial and administrative arrangements was signed between the UNEP Executive Director and the CBD Executive Secretary in September 2012. Like the revised administrative arrangements the delegation of authority recognizes the dual reporting and accountability lines, as well as the applicability of UN and UNEP rules and regulations with respect to the CBD Secretariat's operation.
2. With respect to the paragraphs 2, 13, 15, 16 and 17 of the UNEP Report, the CBD Secretariat associates itself with paragraph 9 of the CITES Secretariat comments and agrees with the conclusion that "there appear to be some internal differences and possible inconsistencies within the UNEP Report regarding how MEA Secretariats are perceived and described", and that "it may be worthwhile further reviewing the different terminology that is used to describe the relationship between MEAs and UNEP."
3. The CBD Secretariat associates itself with paragraph 11 of the CITES Secretariat's comments with regard to the UNEP analysis of MEA governing body decisions as mentioned in paragraph 23 of the UNEP Report. The CBD Secretariat does not appear to have been consulted prior to the analysis's preparation and stands ready to assist in any further analysis undertaken by UNEP.
4. The CBD Secretariat notes from paragraph 31 of the UNEP Report that UNEP and UNON are consulting on a division of labour. It would welcome the opportunity to be kept informed of the process and provide comments as needed if an appropriate opportunity arises.
5. The CBD Secretariat associates itself with paragraph 15 of the CITES Secretariat comments citing that placement of paragraph 32 (d) of the UNEP Report (which refers to "seeking further synergies between the UNEP programme of work and the programmes of the multilateral environmental agreements for which the Executive Director provides the secretariat or performs secretariat functions") "could lead to confusion between the administrative support function fulfilled by UNEP in relation to [the CBD] and any programmatic cooperation between UNEP and [the CBD]. These are separate and distinct matters and directly connecting the two in this manner has been a cause of tension between UNEP and the MEAs and their Secretariats."
6. The CBD Secretariat associates itself with the second sentence of paragraph 16 of the CITES comments that "suggests that the administrative relationship between UNEP and some MEAs not be used as a vehicle for pursuing programmatic cooperation, which is a separate matter."
7. The CBD Secretariat is very pleased to note that in relation to programmatic cooperation between CBD and UNEP, a dialogue has been initiated with UNEP on possible areas of enhanced collaboration in a memo dated 24 September 2012 from the UNEP Executive Director to the CBD Executive Secretary.

## **Relationship between the United Nations Environment Programme and multilateral environmental agreements**

### **Comments from the Secretariat of the Basel, Rotterdam and Stockholm Conventions**

On 31 January, 2013 the Secretariat of the Basel, Rotterdam and Stockholm Conventions (BRS) was invited to comment on document UNEP/GC.27/6. In the note transmitting the document, it was indicated that the MEA secretariats had not been consulted in the preparation of the document, but that any comments provided would be compiled into a separate INF document.

Document UNEP/GC.27/6 is largely factual, citing a number of background decisions, legal actions and history that form, in part, the documentary basis of UNEP's relationship with the UNEP-administered MEAs. It contains several examples of things UNEP has done to communicate with and support MEAs, their secretariats and parties.

As a list of areas and activities where UNEP cooperates with the chemicals and waste related MEAs, we find it to be incomplete. For example, BRS and UNEP Chemicals have cooperated in several areas, including the POPs global monitoring programme, the PCB Elimination Network and the DDT Global Alliance. The BRS secretariat has also provided staffing support to UNEP Chemicals to aid in the successful mercury treaty negotiations, and there have been efforts between the BRS secretariat and the UNEP SAICM secretariat to identify clearinghouse synergies. The BRS secretariat and UNEP's IETC also have a long history of cooperation on waste-related matters. Further, although the paper does note the existence of officers dedicated to certain of the MEAs in the regional offices, it does not elaborate on the functions and future or those officers in terms of strengthening cooperation and coordination. A number of these areas of programmatic cooperation are noted in document UNEP/GC.27/4.

We think this document could have been strengthened in particular by (1) building upon and updating work in this regard that has been done in the past (e.g., as described in UNEP.GC.26/INF/21), and (2) by becoming more forward-looking (i.e., by describing what could be done to strengthen cooperation and coordination).

UNEP/GC.26/INF/21, on the Evolution of the relationship between the United Nations Environment Programme and the multilateral environmental agreements it administers, contains a number of issues of interest to the MEA parties, and which are relevant for the effective implementation of the MEAs. That document touched upon significant budgetary and administrative issues raised by the UN Joint Inspection Unit and the Board of Auditors. It could be useful if the status of progress on the matters raised in UNEP/GC.26/INF/21 could be reported on, and a window of opportunity suggested for addressing any issues that remain outstanding. Paragraph 7 of INF/21 did recognize that "The management and administrative relationship between UNEP and the above-mentioned MEAs has acquired a considerable level of difficulty." Unless those difficulties have been successfully addressed, measures to strengthen this relationship could be an appropriate area for continued, long-term focus of UNEP and the MEAs.

From the BRS perspective, there remain a number of opportunities for strengthening programmatic and administrative cooperation and coordination. On the administrative side, we would like to see a future focus on establishing "standard operating procedures" or their equivalents to make the processes, timelines and responsibilities for each area of service more transparent, predictable and accountable. We also think greater transparency in the use of the 13% PSC would benefit parties' understanding of how their monies are spent. We also believe it may be useful for MEA secretariats to, under the guidance of their parties and in consultation with UNEP, evaluate and report on cost effective options and alternatives for certain administrative services.

Programmatically, we believe that there are further opportunities for synergies. For the BRS secretariat, paragraphs 89 and 216 of "The Future We Want", which call for increasing synergies, is a key outcome of Rio+20. We think that UNEP may wish to consider its possible catalytic role in this regard, a discussion of which could have been usefully included in this paper.

We think that an explicit cross-reference to UNEP/GC.27/8 (Enhancing cooperation and coordination within the chemicals and wastes cluster: implementation of Governing Council decisions 26/12 and SS.XII/5) would also have been useful. We recognize that a busy agenda and limited resources precluded making progress in this area since GC.26. However, we believe that the work here could be used as a basis for future synergies in the chemicals and waste area and especially for strengthening

programmatic cooperation and coordination with BRS. Recognizing that the success of the synergies process to-date has been a result of its party-driven nature, determining an approach that could facilitate complementary decisions in GC and COPs, should governments wish to do this, could have been helpfully discussed in the paper.

We also think the notion of looking at technical assistance, capacity building and other support parties may require to help meet their treaty obligations and respective roles and areas of collaboration between UNEP and BRS may benefit from further exploration. MEA secretariats tend to be bound to specific functions by treaty text, COP decisions and their programmes of work. In many ways these can constrain the secretariat in the extent of their abilities to assist parties. However, in many instances UNEP, and other IGOs, can provide this additional assistance to parties. Examples of how this has worked at the UNEP/BRS interface include the PCB Elimination Network and the DDT Global Alliance. A path forward that could have UNEP and MEAs, possibly including other IGOs (e.g., FAO in the case of the Rotterdam Convention and agricultural pesticides), discussing how to more seamlessly support parties needing assistance could be usefully explored.

In addition, a considerable effort is rightly being put forward by UNEP in the implementation of paragraph 88 of “The Future We Want”. However, other than a passing reference in paragraphs 4 and 5 of UNEP/GC.27/6, no indication is given of how UNEP’s governance reform efforts might touch upon the relationship between UNEP and the MEAs.

Some relatively minor comments follow.

- The document title is “Relationship between UNEP and multilateral environmental agreements”, however the content is limited to UNEP-administered MEAs. (By contrast, document UNEP/GC.26/INF/21 was titled “Evolution of the relationship between UNEP and the multilateral environmental agreements that it administers”, but also included a discussion of UNFCCC and UNCCD, albeit limited.)
- Although the document does note that both UNEP and FAO provide the secretariat of the Rotterdam Convention, we think that it would be worth noting that this arrangement is governed by an MOU between the two organizations, and that the joint provision of a MEA secretariat is a unique development that, in many ways, has provided the backbone for a significant number of the synergies that have been achieved in the chemicals and waste area.
- Paragraph 19 is ambiguously worded and could be read to imply that the 2013 COPs will be reviewing the joint UNEP/FAO provision of the Rotterdam Convention secretariat. The UNEP/FAO arrangement is not specifically on the agendas, but rather the COPs will discuss (a) Review of synergies arrangements; and (b) the Executive Director’s proposal for the organization of the Basel, Stockholm and UNEP-part of the Rotterdam convention secretariats.
- We were unaware of the review referred to in paragraph 23, nor was FAO, who shares secretariat responsibilities for the Rotterdam Convention, ever contacted or informed.
- In paragraph 26, it should also be noted that the bureaux of the Stockholm and Basel Conventions have each requested the initiation of steps to develop MOUs between UNEP and the Conferences of the Parties.
- In paragraph 27, last sentence, it should be clarified that the MOUs are intended to be between the UNEP Executive Director and the Conferences of the Parties (at least for Basel and Stockholm). In these cases, at this point in time, the Executive Secretary is serving as a conduit and facilitator between UNEP and the respective bureaux.
- The consultation with MEA secretariats referred to in paragraph 34 took place only after the MTS and programme of work were circulated to the CPR.

## **Relationship between the United Nations Environment Programme and multilateral environmental agreements (MEAs)**

### **Comments by the Ozone Secretariat**

Thank you for the opportunity to comment on document UNEP/GC.27/6 on the Relationship between the United Nations Environment Programme and multilateral environmental agreements (MEAs). Ideally, these comments and inputs to this document would have enriched the document had these comments been solicited before it was issued. To a great extent the document provides factual overview of the evolutionary relationship between UNEP and the multilateral environmental agreements. However, there are areas of cooperation and coordination between UNEP and the Ozone Secretariat relating to the implementation of both the Vienna Convention and the Montreal Protocol by Parties which require some clarification.

#### **On a broader issue:**

- A general point we would like to make and emphasize is that the Secretariat of MEAs are mandated to implement the decisions and requests of the Parties. The Secretariat and by extension UNEP designated as, or to provide, the secretariat, must ensure that the Parties' decisions are implemented effectively and Parties requests are met. There could be sometimes grey areas between the Parties' decisions and what UNEP 'can' do within the rules and regulations of the UN, but given the fact that the MEAs ".....are independent international legal entities, which are not subsidiary bodies of any organs of the United Nations, and each operates with its own autonomy...." the Secretariat/UNEP must go an extra mile to try to provide the Parties with the best possible solutions. This stance of UNEP is important to emphasize in such a document as 27/6.

#### **On programmatic cooperation:**

- paragraph 9:
- It would have been good to have a little description of what the 'regional focal points' and 'InforMEA' actually do in this document to provide a good overview. We hope to see the description in the separate info document.
- Relevant to the concept and activity of the regional focal points is the Compliance Assistance Programme (CAP) of the OzonAction Programme under DTIE. CAP is a successful mechanism that networks the national ozone officers to achieve compliance with the Montreal Protocol through regional and international cooperation and exchange of experiences and information. CAP deserves a mention in conjunction with the regional focal points.
- paragraph 10:
- The training workshops for prosecutors and customs officials is mentioned: we would like to see more detailed description of the Green Customs Initiative in the information document.

#### **On institutional linkages:**

- paragraph 12(d) - there is a mistake in the first line, last word - 'for' should be 'on'; Montreal Protocol on Substances that Deplete the Ozone Layer.

#### **On accountability and administrative/financial arrangement.**

- A general comment - we feel that the actual "signing" of the delegation of authority between the ED and the head of MEA Secretariats who are staff members of UNEP is a purely internal administrative matter.
- paragraph 27 mentions that the head of Vienna Conv/Montreal Protocol Secretariat among others is reviewing draft MOUs. We do not have a draft MOU as yet to review, thus it is factually wrong to include us here. We are also awaiting the delegation of authority agreement/instruction, which should be a separate document and not part of the MOU. A clear delineation of the MOU and delegation of authority document could have been made in 27/6 for clarity sake.

**Comments from the Regional Seas Programme on UNEP/GC.27/6  
Information document - Relationships between UNEP and MEAs (Regional Seas Conventions and Action Plans)**

- a) Inputs from the Abidjan Convention Secretariat (ABC)**
1. UNEP needs to scale down the 13% they take on the PSC for the MEAs which have limited budgets or less administrative requirements.
  2. Reduce UNEP bureaucracy when it comes to issues like recruitment, procurement, ITC service, etc.
  3. Give more flexibility to Heads of the Secretariat.
  4. MEAs should be treated equally when it comes to what they receive from UNEP against the 13%.....as they are all made up of MCs of UNEP.
  5. It is important that we have a list of services and other support that UNEP is supposed to provide to MEAs for which it provides Secretariat.
- b) Inputs from the Caribbean Regional Coordinating Unit (CAR/RCU)**
6. Whilst Regional Seas Conventions (MAP, CAR, NBO, ABJ) have been introduced in para 20 and part 21 (Caspian), there is need to have a stronger profile-visibility for the Regional Seas. A sub-heading highlighting not only the Global MEAs but also the Regional Seas Conventions would help in such documents to the GC or other global fora. For example, stemming from the Rio+20 Outcome document, sometimes, the Regional Seas Conventions & Action Plans, are not well captured - while Ocean and Seas were high on the Rio agenda, the section on Oceans and Seas in the outcome document was quite comprehensive, but there was no mention at all of the Regional Seas; except for the UNCLOS, along with IMO etc.
  7. It would be helpful at some point, to involve the Regional Seas Coordinators in the discussions undertaken between the Executive Office of UNEP and the MEA Secretariat Heads (that often happens during/after the EMT Retreats), where I imagine most of these issues are addressed; and seeing that para 33 indicates that, " Significant progress has been made on issues of accountability and clarity in the financial and administrative arrangements between UNEP and the multilateral environmental agreements for which the Executive Director provides the secretariat or performs secretariat functions."
  8. Para 23 and 27 mention an 'internal review' and 'preliminary review' respectively. Is this ongoing? Are/or will the Regional Seas be covered or this is just for the global MEAs? The Caspian is covered in para 27, but no mention of any other Regional Seas' and not sure if any other has been contacted.
  9. "Under the section on administrative and financial arrangements", some of the points mentioned in the various paras may need to be streamlined across the board. Para 26 mentions an MOU signed with the MEAs and requested by Parties to the Barcelona Convention... is this something that needs to be streamlined/standardized among all the Secretariats? Might be helpful to share a copy of such an MOU to understand what it entails. In addition, the Delegation of Authority mentioned in para 24 seems to only cover the global MEAs (as in our case, the delegation comes from DEPI).
- The above points go beyond this document to the GC, but would help to enhance the relations and services UNEP provides as Secretariat to the Regional Conventions.
- c) Input from North-West Pacific Action Plan Regional Coordinating Unit (NOWPAP)**
10. In support of comments from ABC and CAR/RCU, treat Regional Seas programmes as equal partners along with global MEAs (and two regional ones under UNEP ROE).
- d) Inputs from Coordinating Unit for the Mediterranean Action Plan (MAP)**
11. We find very useful the legal clarification of roles between UNEP and Agreements as stated in para.13 to 17. Namely, that "the Secretariats are integral parts of the institutional structures of the conventions concerned...and that those conventions are independent international legal entities...which operate with its own autonomy pursuant to the provisions of the convention". The "Governing Council of UNEP consents to the requests of the conventions" and "authorizes the Executive Director of UNEP to provide the Secretariat"... "Such institutional arrangements should be satisfactory to both parties". Moreover, "*the ED has established dedicated organizational units, each of which enjoys functional autonomy* with a work programme and budget approved by the CPs separate from the WP and budget of UNEP. Yet, while the institutional arrangements are different *they still form an integral*

*part of the UNEP Secretariat and the ED nominates staff who are accountable to him.* However, "as the convention secretariats carry the functions expected by the CPs *"those organizational units, functioning as the secretariats of the respective conventions, need to operate autonomously"* and this autonomy is granted through a delegation of authority.

The key question then is what is the level of delegation of authority required to operate autonomously and yet ensure accountability to the UNEP Executive Director. The answer to this question varies and deserves further clarification.

12. Regional Seas are indeed not well captured as mentioned by colleagues from other RS. We understand that either Regional Seas have not been subject of the reviews and analyses referred to in para. 23 or that corrective actions was not needed. However, the action is relevant to clarify accountability levels which at times are blurred and we would endorse carrying out such an exercise for and in consultation with Regional Seas.

13. Regarding the MOU between UNEP and Convention, it is indeed the case that Decision IG.20/13 of CoP 17 of the Barcelona Convention requested UNEP "to work with the Bureau of the CPs on finalizing an MOU on the Secretariat services to and support of the Convention...". A first cut of such proposal prepared by UNEP will be discussed at next MAP Bureau (item 4) to be held immediately after the GC. As requested, the document is attached below. If you are interested we could share the comments received by our CPs.

14. We welcome the 3 areas identified in para 32 as meriting further cooperation and in our view they also apply to Regional Seas.

- In our view a) (MOU) and b) (delegation of authority) are linked. Once the MOU between the Barcelona Convention and UNEP is finalized we will need to revise the delegation of authority;
- Need for further programmatic synergies between UNEP PoW and RS as well as between MEAs would also apply to RS. For example, the coordination between global biodiversity conventions could have a component of cooperation with Regional Seas which until now is missing.

15. IPSAs. The new system to be implemented next year may have major implications for all of us and it would be useful to discuss relevant internal preparations beyond the training already held for AFMs.

16. Accountability and clarity of financial arrangements still requires much work. While recent improvements should be welcomed and acknowledged, If MAP past financial problems show something, it is our vulnerability and the need for further clarifying an accountability framework which is complex, fragmented and at times inconsistent.

#### **Factual corrections:**

1. Para 20 (a) Relevant art. of the BC is art 17 and not 13.

2. Para 26. Dec IG.20/13 of COP 17 requested UNEP directly to prepare such MOU and not through the secretariat to the convention.

#### **e) Inputs from the Nairobi Conventions**

The paper illustrates what could be done to enhance coherence and consultation, as a way of ensuring there is synergy between MEAs and also with UNEP. However, it is evident from the many reactions that, we don't practice what we preach. The consultations on this paper were on a one-way street? That is my starting point.

Secondly, the paper is heavy on autonomy, or the need to demonstrate that the MEAs are legally autonomous but functionally tied to UNEP. The paper should have expounded on why the functional link or tie to UNEP is not only necessary, but in my opinion, should be enhanced. When MEAs operate like autonomous mini – UNEPs, coherence is lost, greatly eroding UNEP's coordination role as the authoritative global advocate for the environment.

Going back to the basics, I would first draw a line between what UNEP does well through its global mandate on Environment i.e. being the authoritative advocate for the global environment and the role of MEAs which is about giving greater definitions and clarity to environmental themes (biodiversity, chemicals).

As long as UNEP is playing an overarching role of advocacy for the environment at the global level, we must also admit that there must be, out of necessity, other structures that will provide greater definition to issues at the theme level. Consequently, the MEAs, mandates notwithstanding, should be seen to contribute to UNEP's ability to advocate at the global level on all environmental matters. MEAs and UNEP should therefore have a close but **evolving functional relationship**.

This is also true for the regional MEAs that provide greater clarity to regional issues in a way that compliments UNEP's delivery of its mandate at the regional level. This efficiency is further enhanced when a regional MEA is also thematic in nature, as is the case with Regional Seas.

It is this evolving **functional relationship** between MEAs and UNEP that should inform and define the **administrative, financial and institutional** relationships. Unfortunately, the functional relationship or ties between the MEAs and UNEP are not always well defined, hence, I will join my colleagues and re-state, the need for greater accountability, administrative and financial arrangement and especially the need for streamlined/standardized structures among all the Secretariats including the Delegation of Authority, which is, though well-defined for the global MEAs, it is disparate among the Regional Seas Conventions.

More specifically, on para 20 (c) on the Nairobi Convention; Article 17 of the Amended Nairobi Convention designates UNEP as the Secretariat of the Convention. The rest of the text in the paper is not part of the article and is transient detail, which will change over time.

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