

Workshop on International Environmental Governance: Function and Interplay of UNEP Governing Bodies

**Ittingen, Switzerland
6-8 June, 2018**

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Introduction

On 6-8 June, 2018, the Federal Office for the Environment of Switzerland convened a workshop on International Environmental Governance (IEG) in Ittingen, Switzerland. The event was attended by 21 participants consisting of officials from capitals and members of the Committee of Permanent Representatives (CPR) in Nairobi or Geneva representing 13 countries and the European Union, as well as three participants from the United Nations Environment Programme (UNEP). Janos Pasztor from the Carnegie Climate Geo-engineering Governance Initiative moderated the discussions. The workshop refined and built on the outcomes of the IEG workshop held in Glion, Switzerland, on 20-22 June, 2017.

The meeting took place under Chatham House rules and the participants spoke in their personal capacity. To stimulate discussions, the Swiss Federal Office for the Environment had prepared two thought starters on the subject matter and distributed them to participants in advance of the workshop. The present report notes the main findings from the open and frank discussions – it is a report under the responsibilities of the hosts and does not reflect a common position.

Structure and Objectives of the Workshop

The workshop on International Environmental Governance was structured into the following three main segments followed by a synthesis of findings and recommendations:

- Unlocking the Potential of the United Nations Environment Assembly (UNEA)
- The Role and Function of the Committee of Permanent Representatives (CPR)
- The Function and Interplay of the Governing Bodies of UNEP and UNEA

In addition, Janos Pasztor introduced the participants to the emerging topic of geo-engineering and its relevance for International Environmental Governance. Questions to the attention of International Environmental Governance include inter alia the following: Who is responsible for carbon dioxide removal? How

will it be funded? Who should make decisions whether or not solar geoengineering – which will have planet-wide impacts – should be used? When should such a decision be made (today, at +1.1°C above historical average or later)? Who controls the global thermostat? Who makes decisions on implementations with positive consequences for certain countries and possibly negative consequences for others? A certain interest among the group was identified to address these and other questions in a resolution at the upcoming UNEA requesting a report on opportunities and risks of geoengineering.

The objective of the workshop was to have a close look at the governing bodies, their subsidiary organs, and the interactions between them with the intention of identifying what can be improved and how it can be improved. The *Main Findings* sections in the present report state the most salient points voiced during each workshop segment. In line with the open and frank discussions, the findings are not ranked in any order and range from concrete, actionable items to more general deliberations.

Segment 1: Unlocking the Potential of the United Nations Environment Assembly (UNEA)

The deliberations revolved around the following guiding questions:

- How can we fulfill UNEA's functions given by its mandate?
- What are the hurdles to overcome and challenges to meet to fulfill its mandate?
- What role do the following elements play in serving that mandate (resolutions; ministerial outcome; UNEA Bureau; Multilateral Environmental Agreements (MEA); stakeholder participation)?

Main Findings

UNEA Bureau:

- There were differing views as to the necessary level of the elected representative.
- It was undisputed that the president of the bureau should be at ministerial level.
- While the level for other bureau members was not mutually agreed, their function

entails that the elected representative should be prepared to regularly consult the regional group which they represent and chair negotiation sessions at UNEA. Many participants considered their expertise of higher importance than their level.

- It was considered important to inform candidates of their expected duties as bureau members in advance of being elected; UNEP secretariat should provide guidance to candidates in this regard. UNEP secretariat should also prepare for each Bureau member a list of the contacts of his or her regional group to facilitate regional consultation.
- The UNEA bureau could provide guidance on drafting resolutions by listing certain elements to be considered, including e.g. recommended length of a decision, short rationale for the proposed draft decision, how it relates to UNEP's mandate, relationship to other (draft) resolutions, relationship to decisions in other fora, a reflection on budgetary implications, main addressee, whether it is thematic or procedural. The UNEP secretariat could assist in outlining these aspects (→ for further details, please see Annex 1).

Resolutions:

- Guidance for draft resolutions is needed (see above). The general consensus among the participants was that less is more and shorter is better.
- However, a fixed maximum number of resolutions was not seen as the best way forward.
- In terms of length of each resolution, there was a tendency in favor of shorter resolutions. In particular, extensive preambles should be avoided.
- Incentives to clustering are needed.
- Instead of limiting the number of resolutions, efforts should lead to increase the impact and meaning of resolutions in order to speak to the UNEA mandate of "providing overarching policy guidance"
- Consensus is key; resolutions should not be put to a vote.
- Currently, states are not asked to provide information on the implementation of resolutions. Short reporting on a voluntary basis might be useful in this regard.

- Budgetary implications should be outlined to the extent possible and be taken up in the CPR.

Theme:

- The theme for UNEA refers to the high level segment: it can help to focus on a particular topic and serve as a pull factor for the attendance of ministers.
- Different concepts for multi-year themes were voiced among participants: One theme for several years or a series of themes covering a certain period. While there was no preference for either concept among the participants, one of the concepts presented a more systematic approach to themes by deriving them from the Global Environmental Outlook (GEO) for upcoming UNEAs.
- Resolutions should not be limited to any chosen theme as UNEP's mandate is much broader.

Segment 2: The Role and Function of the Committee of Permanent Representatives (CPR)

The discussions elaborated on the following guiding questions:

- How can we make sure the CPR fulfills its important oversight function?
- What are the hurdles to overcome and challenges to meet in that respect?
- What role do the following elements play in serving that function (mandates of the CPR, Open-Ended CPR, and the CPR Subcommittee; meeting frequency and timing; exchange between CPR and UNEP)?

Main Findings

Mandates and Terminology:

- The current terminology (CPR, Open-Ended CPR, Annual Subcommittee Meeting of the CPR) is not self-explanatory and can be misleading, in particular for newcomers to the UNEP governance structure.
- The general understanding among the participants was that

a) the CPR's core mandate is its oversight function over UNEP and the preparation of the Programme of Work and Budget;

b) the Open-Ended CPR (OECPR) assumes the function of a preparatory committee meeting for UNEA in terms of substance. Decision 27/2 ensures support to developing countries representatives, to enable the participation of capital-based delegates, including delegations without Permanent Missions in Nairobi; and,

c) the Annual Subcommittee Meeting of the CPR is de facto an annual meeting of the CPR which allowed for attendance from capitals with a specific mandate, i.e. mainly to review and prepare Programme of Work and Budget and Mid-term Strategies.

- While it was deemed more important to have the same understanding of what was intended when the OECPR was created it was also recognized that names matter: "A spade should be called a spade."
- The value of the current format of the Annual Subcommittee Meeting of the CPR was estimated at varying levels. It was suggested to raise the profile of the annual Annual Subcommittee Meeting of the CPR to allow for interpretation and financial assistance for developing country participation while noting financial implications of such a decision.
- The last CPR before a UNEA/OECPR should provide space for the presentation of draft resolutions in order to give Member States a preliminary view of upcoming resolutions to UNEA, and to identify possible convergence or overlaps of similar resolutions. Actual negotiations of these resolutions, however, should not take place in the CPR but in the OECPR in line with the understanding above.
- Formal clarification of UNEP's governance structure by means of a resolution (e.g. changes to decision 2/27), however, was seen as difficult by several participants: negotiations could end in a deadlock.

Strengthening of the CPR:

- Participants agreed that the CPR needs to be strengthened to fulfill its oversight function and should take a more decisive role. The current arrangement does not

seem to be ideal in this regard. The following measures could help improve the situation: a better scheduling of meetings and agenda setting, making sure that documents are available early enough to allow for consultations with capitals, ensuring the presence and the exchange with the Executive Director, and formulating conclusions and/or decisions at the end of each CPR meeting.

- There were doubts about the actual benefit of the current practice of joint CPR and UNEA Bureau meetings. Joint meetings were deemed useful only in the current transitional period, as the UNEA Bureau is not yet fully prepared to assume its mandate. In the long run, joint bureau meetings inhibit both Bureaus to focus on their tasks and mandate, i.e. to organize the process of the CPR and of the UNEA respectively.
- Briefings by UNEP for the CPR were criticized by several participants: The main focus of the CPR should be to oversee UNEP's work and to prepare its Programme of Work and budget. Briefings on technical issues do not necessarily constitute an added value for its work. In general, the briefings should be driven by specific requests emanating from the CPR. While high-level participation by UNEP was appreciated, to constitute an added value, briefings should take the form of an exchange between the CPR and high-level representatives from UNEP; unidirectional information was estimated less useful.

Timing of meetings:

- Having the preparatory committee meeting (OECPR) back to back with UNEA was seen by many as yielding considerable synergies. One possible drawback was identified in a lack of time for internal consultation. However, it was clear that there should not be any negotiations on resolutions during an eventual break between OECPR and UNEA.
- One possible synergy pointed out was to merge the Annual Subcommittee Meeting of the CPR with one of the 4 CPR meetings in even years, i.e. years without a UNEA.
- Participants were in favor of a better co-ordination of meetings (online calendars), which can be effectuated without initiating

a major reform. In addition to a more co-ordinated timing of meetings, it was also considered useful that the content of the meetings be communicated as early as possible.

- In even years, the OECPR could be held in spring to allow for an input to the HLPF (→ for further details, please see Annex 2).

Segment 3: The Function and Interplay of the Governing Bodies of UNEP and UNEA

This segment built upon the preceding two segments, analyzed how the roles and responsibilities of the governing bodies are intertwined and depend on one another. Guiding questions were:

- What are the benefits and drawbacks of overlapping responsibilities?
- How can we resolve conflicting or missing elements in the mandates?

Main Findings

Mandates:

- A certain overlap between the UNEA Bureau and the CPR Bureau was observed. Participants felt that a refocusing on the core mandate was needed.
- The UNEA Bureau's core responsibility was seen in the preparation of UNEA (in consultation with the CPR).
- The CPR should focus on its "house-keeping" function, namely the oversight regarding the Programme of Work and Budget and its implementation.
- Resolutions pertaining to the Programme of Work and Budget should be predominantly dealt with or prepared by the CPR.

Possible measures to clarify the roles and responsibilities:

- The CPR could e.g. establish an online repository of request from the CPR to UNEP to allow missions in Nairobi and capitals to better follow the exchange.
- The UNEA Bureau could request from the secretariat a non-binding guide or checklist for the drafting of resolutions (→ for further details, please see Annex 1).
- "Welcome packages" for new UNEA Bureau members could be prepared by the

secretariat including an indication what the role as elected bureau representative entails as well as a list of the contacts of his or her regional group to facilitate regional consultation.

Possible areas for reform:

- Renaming / transforming the OECPR into a Preparatory Committee Meeting.
- Raising the profile of the Annual Subcommittee Meeting of the CPR to allow for translation services and financial support for the participation of developing countries.
- Adding the adoption of an input to the HLPF as a new function.

Work Streams:

- There were doubts about the actual benefit of the current joint meetings of the UNEA Bureau and CPR Bureau. Joint meetings were only seen as beneficial in the short term, predominantly because the UNEA Bureau as of now is not yet prepared to fully assume its mandate of preparing UNEA. However, in the long run, the two should be separated to allow each bureau to focus more on its particular mandate.

Challenges for Member States:

- One of the main challenges identified is to ensure the appropriate and necessary competence and capacity for the respective governing bodies both at the missions in Nairobi and in capitals.

Concluding Remarks

It was argued that, to the extent possible, a pragmatic approach should be taken to clarifying the roles and responsibilities of the governing bodies. Many of the identified possible measures to strengthen the governance structure, such as e.g. better scheduling and focusing of CPR meetings, making sure that documents are available early enough to consult with capitals, informing the CPR at its last session before an OECPR/UNEA about draft resolution to be submitted can be implemented without any formal decision by UNEA.

The annexes below delineate two specific ideas, which emanated from the workshop.

Annex 1: Possible Guidance to Member States for Tabling Resolutions

The UNEA Bureau may provide “soft guidance” (without prejudice to the Rules of Procedure) to Member States by setting out a number of elements to be considered when preparing a draft resolution, including the following:

- recommended deadline for submission;
- recommended length of a draft resolution – limiting or avoiding preambular text;
- overall rationale for initiative – incl. how the draft relates to the mandate and the theme of the UN Environment Assembly;
- set out the relationship to the Programme of Work and budget;
- set out the relationship to other adopted UNEA resolutions – and other submitted draft resolutions;
- set out the relationship to existing decisions in other UN fora (to avoid duplication);
- at least reflect on financial considerations of the draft;
- identify the main addressees (UNEP, Member States, UN system, stakeholders);
- indicate whether the initiative is thematic or procedural;
- indicate whether the initiative seeks to address an emerging issue.

Member States may be invited by the bureau to complement the draft resolutions with a short concept note outlining how the draft addresses these elements, possibly with support from the Secretariat. In doing so Member States would be encouraged to think about these aspects in advance of tabling a resolution. Moreover, it may provide a useful rationale to other Member States in preparation for the negotiations as well as to the Secretariat in view of implementation and follow-up.

Annex 2: Clarification of the Functions, Timing and Names of UNEP Governing Bodies and Subsidiary Organs

Member States may wish to consider refining the two-year cycle of the UN Environment Assembly towards a policy development focus in odd years and an implementation and review in even years.

Policy Development (odd years)

Starting from 2019, the UN Environment Assembly meets for 5 days in February, to focus on policy formulation, with universal participation at ministerial level during a 2-day high level segment. The OECPR meets at senior official level during 5 days with representation from capitals to prepare the adoption of decisions and resolutions at the Assembly; this meeting may usefully be renamed as a “Preparatory Committee for the Assembly” (PREPCOM) and be held immediately prior to UNEA.

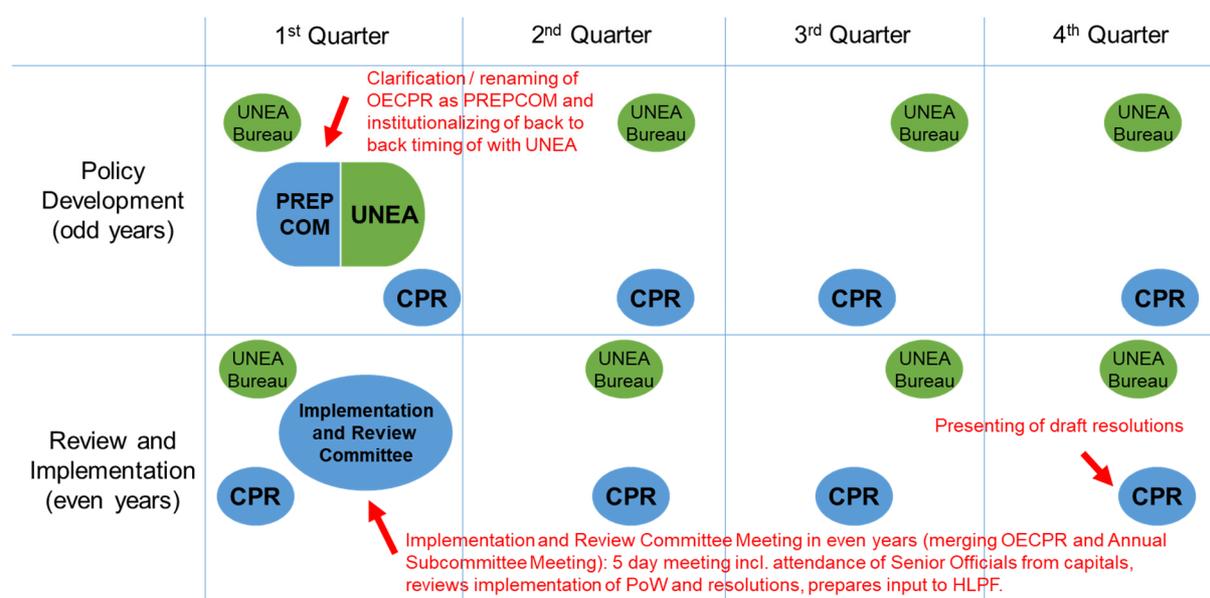
Implementation and Review (even years)

Starting from 2020, an additional OECPR meeting could be organized, possibly in the first quarter of even years, to review implementation of the Programme of Work and resolutions, adopt an annual budget for UN Environment Programme (as required by a recent General Assembly resolution), and possibly prepare inputs for the High-Level Forum on Sustainable Development. To distinguish this meeting from the OECPR/PREPCOM, this meeting may usefully be named “Implementation and Review Committee” (IRC), and it could replace the Annual Subcommittee meeting – which partly assumes the same function.

The Committee of Permanent Representatives would continue to meet 4 times every year, to review the Programme of Work and budget on more a regular basis, and prepare for the above meetings in particular through a presentation of UNEA draft resolutions in the last CPR Meeting prior to the OECPR/PREPCOM.

Figure 1:

Illustration of a possible refinement of the current two-year cycle; proposed amendments in red



Clarification vs. Formal Name Change and Respective Implications

To clarify that the OECPR will *function as* a PREPCOM and the Annual Subcommittee *will function as* an IRC can be done through simplified process, e.g. by issuing a statement from the UNEA President

(to which the Environment Assembly may wish to take note, thereby endorsing the content of the statement).

To *formally rename the OECPR* to a PREPCOM during odd years and an IRC during even years and / or to *“upgrade” the Annual Subcommittee to apply a OECPR format* (which would require significant additional financial resources due to interpretation, translation and travel support for developing country representatives) will need a dedicated decision by UNEA, possibly in the form of an amendment to Resolution 2/27.

Notes:



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Swiss Confederation

Federal Department of the Environment,
Transport, Energy and Communications DETEC

Federal Office for the Environment FOEN
International Affairs Division