



International Environment Forum



Building Effective Multilateralism for the Environment

Proposals aligned with *Our Common Agenda*

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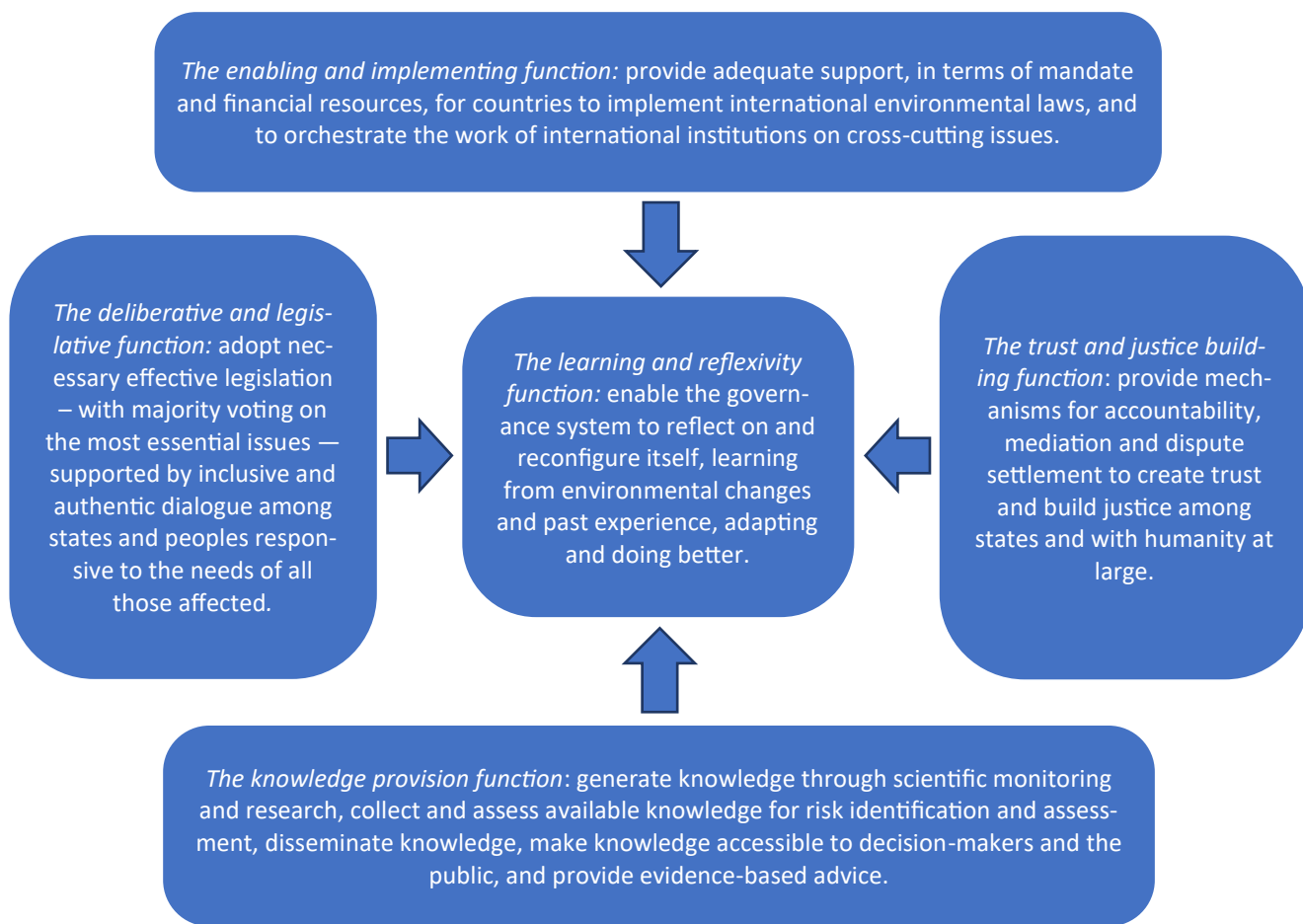
Introduction

Our Common Agenda, the UN Secretary General's report to the UN General Assembly in 2021, is rightly based on the fact that effective multilateralism can only be put in place when it is seen as legitimate by the peoples of the United Nations. The foundation is a strengthened social contract between states and their citizens that leaves no one behind and that builds trust by inclusive listening. Moreover, the social contract needs go beyond national borders and be inclusive of the ethos of global citizenship – caring for the wellbeing of present and future generations wherever they reside, and caring about our planet that sustains us. Strengthening the social contract takes deep commitment and considerable time, time that the earth's ecosystems and communities directly depending on them do not have. Current leaders need to take immediate steps beyond the 'politically feasible', through acts of moral leadership, towards a more effective multilateral system to address the most acute environmental crises and build more resilient communities for the future.

In this brief we suggest some short-term steps for strengthening effective multilateralism for the environment – and some bolder ones for the future when the understanding of our interdependence on the planet has sunk deeper into the collective consciousness of humanity and its leaders. The proposals align with and enrich a number of actions under the commitments of *Our Common Agenda*, and draw on earlier reports specifically aimed to suggested ways to strengthen global environmental and climate governance.^{1, 2}

Five functions of the multilateral system needed to protect our planet

The considerable experience of national environmental governance over the past fifty years has enabled scholars to advance their evidence base for how to design effective environmental policy and governance in a multilevel context. A systematic analysis of what has been learned about key functions of national environmental governance suggests which elements of such functions are needed at the global level. We identify five key functions a for a multilateral system that can effectively protect the planet:³



We find it most encouraging that many of the UN Secretary General’s proposals in *Our Common Agenda* (OCA) support several of these functions - all of which need considerable, and some even transformative strengthening. Table 1 in the annex highlights the proposals relevant for each function and illustrates that many OCA reforms under other themes (for example on ensuring justice and building trust) are vital for the commitment to protect our planet. Nonetheless, we see the need for a set of additional measures to ensure that the five functions become strong enough to address urgent and future environmental risks and threats. Below we describe a subset of these proposals all of which intersect with and reinforce key OCA themes. In our comprehensive report,⁴ we suggested these five functions to be anchored over time in a UN (global) Environment Agency – an Agency that could evolve from a reformed UN Environment Programme. The institutional form, is however, less important in the short term. Much can be done to strengthen the five functions with creative and bold use of existing institutions.

Connecting the dots in what we know towards what we do

Our Common Agenda envisions a stronger role of science and knowledge for effective multilateralism and suggests a number of measures to improve strategic foresight about global risks, laying a stronger basis for emergency preparedness. While issue-based scientific assessments, as by the Intergovernmental Panel on Climate Change (IPCC) and the Intergovernmental Platform on Biodiversity and Ecosystem Services (IPBES), provide a useful model, the complex interactions in the global system require a multidisciplinary approach including the natural and social sciences, humanities and indigenous knowledge, looking not only at coming crises and tipping points as outlined by Obura,⁵ and the complex interactions between multiple catastrophic risks,⁶ but also at human impacts and feedbacks that may precipitate new risks, and the effectiveness of response policies and measures for mitigation and adaptation. **A Global Science Council or equivalent body**, initially outside the UN if necessary, with adequate human and financial resources, **could expand and integrate the scope of existing scientific research and as-**

assessment processes. This could provide a **global umbrella for expanded regional, national and local scientific assessment processes** closest to the problems and their human impacts, and including citizen science, which will increase public understanding, acceptance and action. The importance of trust in science requires **transparent and well-documented and integrated science communications from the global level**, targeting both decision-makers and the general public. Bold and science-based decision-making is needed to accelerate the pace of change.⁷

Deliberate and legislate globally for the common good

One of the most fundamental failures in present environmental governance is the inability of existing institutions and processes to legislate effectively to protect both the planetary boundaries necessary for future survival, and the inner social boundaries that define a just, equitable and socially-sustainable planetary society ensuring human well-being and leaving no one behind.

In the national context it would be unthinkable that one particular subnational unit or group could block with a single vote the adoption of legislation considered vital for national welfare and security, or decide not to be subject to a particular law. This, however, is the case for Multilateral Environmental Agreements (MEAs). Too-narrow and outdated concepts of national sovereignty and the resulting consensus rule in treaty negotiations produce a fragmented set of MEAs with lofty objectives but few specific binding obligations, and hardly any means to enforce even those (see below). We suggest that a vital element of *Our Common Agenda's* 'new vision for the rule of law' is a **gradual process to replace the consensus rule with more reasonable formulae for voting in the common global interest** starting in the United Nations Environment Assembly and the Conference of the Parties of the most important MEAs such as the Paris Agreement. The **voting formula could include majorities varying with the issue, based on careful justification in line with agreed principles such as subsidiarity.** A similar approach could be adopted in other relevant bodies such as in the suggested reformed Trusteeship Council that Our Common Agenda envisions to provide a voice for future generations, protect the global commons and ensure provision of global public goods, and address global public risks. Importantly, global commons encompass not only a broad set of spaces and resources but also system character-

istics of the environmental, social and economic systems. One such characteristic that is becoming increasingly vital, particularly for future generations, is resilience, ensuring the capacity of societies to withstand future shocks and rebound in the face of intensifying challenges. Thus we suggest **the repurposed Trusteeship Council should include promoting resilience in its mandate.**

Additional measures for the development of more effective international law include:

- **to negotiate and adopt a 'treaty of treaties' establishing the fundamental principles international environmental law**, binding not only States but also non-governmental entities including businesses and individuals with the capacity to cause global damage. This can build on earlier efforts on the Earth Charter and the Global Pact for the Environment;

- **to create processes to gradually consolidate the many MEAs into a coherent, coordinated and efficient legal framework** to avoid overburdening countries with so many multiple processes and obligations.

Importantly, steps outlined here to strengthen the legislative function of the multilateral system for protecting our planet will not be achievable unless and until the 'quality' of the preceding negotiation process improves and moves towards the characteristics of deliberation. Deliberation, can be considered "a universal human capability for collective reasoning" and one that is "manifested differently in different cultures".⁸ Drawing on criteria for what constitute deliberative negotiations,⁹ we advise **developing an informal (and ideally later formal) Code of Conduct for negotiations** that includes them being: **open to the voices of all those potentially affected; transparent in reasoning and process of mutual justification; based on participants speaking truthfully excluding obvious lies or distortion of facts; and respectful of all participants.** One particular group that will be affected by today's decisions are youth who have called for governance to be reformed to ensure stronger inclusion of youth and with education and capacity building of youth playing a key role.¹⁰

Enable and accompany the actors

There are many parts of the multilateral system with the UN in its centre that are essential for protecting the planet, but they too often function in silos. The mandates of international organizations are too weak to deliver on the goals and actions agreed since 1972, with only one tenth of targets achieved.¹¹ What is needed is a global environ-

mental institution, such as a reformed UNEP, with the mandate to **orchestrate the institutions across the system**, defining a coherent global strategy for enabling and accompany States and other actors to comply with their obligations under MEAs and act towards achieving globally adopted goals. **This requires the institution to be able to: provide or identify sufficient funding and capacity building for countries** that so request; **provide regular reports on country implementation and compliance** with their environmental responsibilities and based on this **provide reciprocal learning programmes to build trust and mutual understanding for countries environmental management challenges; coordinate and continuously evaluate international collaboration in various sectors and forums** including public, multistakeholder and public-private partnerships; and **assist international trade and finance institutions to incorporate environmental responsibilities into their statutes.**

Build trust and justice

The Global Road map for the effective implementation of international law as laid out by Our Common Agenda will play a vital role in building trust and justice in and through multilateral cooperation for protecting the planet. The low implementation of MEAs and low attainment of globally agreed goals feeds mistrust and feelings of injustice among States who see other States able to free-ride, and especially among youth who see their future in danger. While there is formal follow-up of States' obligations in MEAs, reporting requirements are generally weak and even weaker are the mandates to analyse those reports and formally hold states to account for failing to meet their international obligations. Accountability mechanisms are in many governance contexts considered essential for trust building and justice; at national level we expect an independent judiciary and informal public arenas that are able to hold those in authority to account. We therefore suggest that the Global Road Map puts a strong emphasis on **developing a culture where States become more comfortable to engage in accountability mechanisms**, building on the facilitative mechanisms often in place. More specifically a priority over time is to **develop and consolidate implementation and compliance mechanisms for the MEAs**, mechanisms which are **linked to financial and technical assistance for states that are at risk of non-compliance** (see above).

Additionally, dispute settlement mechanisms need to be further expanded, starting with **negotiation and arbitration**, and leading if necessary to a judicial system specialised in environmental matters such as an **International Court for the Environment**. Moreover, the efforts to create accountability need to be open to people, particularly youth, whose future is at stake and whose trust in multilateral cooperation must not be lost. Measures should therefore be taken to **grant standing to competent civil society organizations to present their observations to compliance committees and during disputes before judicial bodies, and to bring actions before international environmental judicial systems.**

Learn to learn and be bold to change

Perhaps the most important function to strengthen in the multilateral system is its ability to learn and to reflect on and reconfigure itself in response to changes in the tightly interconnected environmental and social systems. This cross-cutting function requires firstly a functioning system of knowledge generation as described above. We need a **system for 'listening to Mother Earth' — a rapid flow of information on long-term trends and unexpected changes, organised expert groups evaluating the data and finally procedures for communicating warnings and response alternatives to the appropriate decision-making bodies.** Such bodies can include a reformed Trusteeship Council, the UN Environment Assembly or a future UN Environment Agency as well as Our Common Agenda's suggested Global Risk Report and Emergency Platform.

The learning and reflexivity function further needs **deep and systematic analysis on the effectiveness of global policies and institutional arrangements.** A node in the system such as a strengthened UNEP can **promote more systematic inter-institutional learning between** all components of the system including **specialized agencies, MEAs and assessment processes.** With such analysis as the basis **States need to engage in open, inclusive and authentic deliberation about the appropriateness of the values, principles and rules that underly the system.** *And if those values, principles and rules are found to be wanting – States need to adapt them.*

One obvious candidate for re-evaluation is a too narrow and outdated concept the principle of **national sovereignty.** A narrow adherence to an outdated and no longer applicable form of sovereignty ignores humanity's interconnectedness

and thereby States and other actors' responsibility and mutual accountability for actions that impact the global commons. Sovereignty furthermore blocks majority decision-making in global institutions and reduces legislative efforts to what the most disinterested or even obstructive states agree to rather than what is required. Alternative principles for allocating governance to the global level exist such as **subsidiarity** which is a principle that **can preserve the autonomy of States – yet prescribe global measures when necessary in the common interest**. Subsidiarity can guide the constraining of state sovereignty by international law¹² and calls for a centralised authority when it is “morally desirable and economically efficient”.¹³

Our Common Agenda and the political moments it suggests have as their purpose some elements of such deliberation including Stockholm+50, the Summit of the Future and the Global Stocktake of the Paris Agreement, but none of these have the mandate required. **Global institutions need to institutionalise regular review moments for evaluating their own effectiveness and adapt course accordingly.**

Concluding remarks

While this set of proposals is certainly ambitious, anything less will result in the same failures to implement agreed principles and decisions that have led to the present impasse. The High-Level Advisory Board on Effective Multilateralism could identify the initial steps that are not too threatening but that can initiate an accelerating process of transformation while building trust and establishing accountability.

For the knowledge provision function, there is already sufficient unity in the world scientific community to establish a Global Science Council integrating all the disciplines and supporting coherence to the many existing assessment processes.

A coalition should be built to advocate for the UN Environment Assembly and relevant Conferences of the Parties to move towards majority decision-making for specific key priority issues such as climate change and biodiversity as a precedent in ceding some narrow and outdated concepts of national sovereignty in the interest of the common good. There should be no obstacle to asking legal specialists to draft fundamental principles of international environmental law and to start dialogues among deliberation experts, diplomats and civil society on a code of conduct for making negotiations more deliberative in character.

For enabling implementation and trust building the UN system should agree to extend UNEP's coordinating role to an orchestrating responsibility to bring coherence and strategic vision to the many actors sharing responsibility for protecting the global environment for the common good of all humanity, with adequate resources to support implementation and compliance as the foundation for accountability. These are far-reaching changes but can be approached step-wise.

All of this should be accompanied in the relevant institutions by continuing processes of review of the effectiveness of policies and institutional arrangements so as to be able to respond rapidly to accelerating environmental challenges. Wide transparent stakeholder involvement will also build trust and public support to help the world transform rapidly from crises to sustainability.

Annex

Table 1. Our Common Agenda proposals relevant for the five environmental governance functions.

Function	OCA reform proposals relevant for the five key functions of global environmental governance
Knowledge provision	<ul style="list-style-type: none"> – Re-establish the SG Scientific Advisory Board – Strategic Foresight and Global Risk report by the UN every five years
Deliberative and legislative	<ul style="list-style-type: none"> – Leaders meeting ahead of the global stocktake in 2023 – Adopting the post-2020 biodiversity framework – New vision for the rule of law – More listening, participation and consultation by the UN bodies – Represent future generations including through a repurposed Trusteeship Council, a Declaration on Future Generations
Enabling and implementing	<ul style="list-style-type: none"> – Package of support to developing countries – Measures for adaptation and resilience – More systematic engagement with parliaments, national authorities and the private sector – Civil society focal points in all UN entities – Support a SDG investment boost
Trust and justice building	<ul style="list-style-type: none"> – Global road map for the development and effective implementation of international law – Inclusive national listening and “envisioning the future” exercise
Learning and reflexivity	–

¹ Climate Governance Commission (2021). *Governing Our Climate Future*. Interim Report of The Climate Governance Commission. Stockholm, The Climate Governance Commission.

² Karlsson-Vinkhuyzen, S. and A. L. Dahl (2021). *Towards a Global Environment Agency Effective Governance for Shared Ecological Risks*. A GCF Report. Stockholm, Global Challenges Foundation

³ Ibid.

⁴ Ibid.

⁵ Obura, D. (2022). *The Case for an International Expert Panel on Planetary Boundaries*. Policy Brief, input to the HLAB, 1 June 2022. Commissioned by Stiftelsen Global Challenges Foundation, Stockholm, Sweden.

⁶ Jiborn, M. (2022). *The Case for an International Expert Panel on Earth System Catastrophic Risks*. Policy brief, input to the High Level Advisory Board on Effective Multilateralism. Stockholm, Global Challenges Foundation.

⁷ SEI & CEEW (2022). *Stockholm+50: Unlocking a Better Future*. Stockholm Environment Institute. DOI: 10.51414/sei2022.011

⁸ Dryzek, J. S. and J. Pickering (2017). "Deliberation as a catalyst for reflexive environmental governance." *Ecological Economics* **131**: 353-360.

⁹ See for example Mansbridge, J. (2009). "A 'Selection Model' of Political Representation." *The Journal of Political Philosophy* **17**(4): 369-398.

¹⁰ Aggarwal, D., Esquivel, N., Hocquet, R., Martin, K., Mungo, C., Nazareth, A., Nikam, J., Odenyo, J., Ravindran, B., Kurinji, L. S., Shawoo, Z., & Yamada, K. (2022). *Charting a youth vision for a just and sustainable future*. Stockholm Environment Institute. DOI: 10.51414/sei2022.01

¹¹ SEI & CEEW (2022)

¹² Kumm, M. (2016). "Sovereignty and the Right to Be Left Alone: Subsidiarity, Justice-sensitive Externalities, and the Proper Domain of the Consent Requirement in International Law." *Law and Contemporary Problems* **79**(2): 239-258.

¹³ Lee, F. J. (2010). "Global Institutional Choice." *New York University Law Review* **85**(1): 328-357.