

Consolidating Global Environmental Governance: New Lessons from the GEF?

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INTRODUCTION AND OVERVIEW

This chapter seeks to draw preliminary lessons from nearly eight years of operation of the Global Environment Facility (GEF). It assesses the GEF's role in consolidating the governance of project finance in areas of global environmental concern. The GEF, in its present "restructured" form, was established in 1994.² It was viewed then as a novel experiment in institutional design. It sought to draw upon the capacities of more than one international development agency (the United Nations Development Programme (UNDP), the United Nations Environment Programme (UNEP) and the World Bank), and to serve the needs of more than one Multilateral Environmental Agreement (MEA). Faced with the complexity of these arrangements, the GEF's designers opted to construct the GEF through a loose set of institutional links, rather than to create a new international institution, underpinned by a treaty instrument.

The arguments made in favour of this institutional experiment pointed to the need to avoid the duplication or proliferation of institutions, to tap into the comparative advantages of existing institutions, and to promote partnerships, co-operation and healthy competition amongst development agencies. On the basis of a common set of institutional functions that cut across a number of global environmental challenges, the GEF was asked to consolidate aspects of international environmental governance. The GEF thus represented a significant effort by the international community to engage in what is now fashionably referred to within the context of discussions on international environmental governance, as "functional clustering".³

The GEF's role and structure were, however, controversial. The history of its negotiation and the concerns raised by its design were reviewed by this author shortly after the GEF Instrument was adopted.⁴ That history shows that the concept of a single financial mechanism to serve more than one MEA was promoted by industrialised "donor" countries. Developing countries favoured an approach that would have established separate MEA-specific financial mechanisms operating under the direct authority and control of each MEA Conferences of Parties (COPs). The GEF's consolidation of financial functions was seen by some as an effort to limit the amount of overall funding that might otherwise have been available to MEAs. Some were also concerned that functional consolidation would lead to a consolidation of power in the hands of the donors. This concern was heightened by the role that the World Bank would play as the largest of the GEF's three Implementing Agencies. The Implementing Agencies were also involved in the negotiations on the GEF restructuring and tended to back the positions of their natural constituencies, with UN agencies lining up behind developing countries and the Bank supporting positions taken by donors. At the time, bodies within the UN system, and those within the so-called "Bretton Woods" system, did not have a track record of

² Instrument for the Establishment of the Restructured Global Environment Facility [hereinafter the GEF Instrument]. This and all other GEF documents referred to in this paper are available on <<http://www.gefweb.org>>.

³ See, e.g., *Implementing the Clustering Strategy for Multilateral Environmental Agreements: A Framework*, Background Paper by the Secretariat, UNEP/IGM/4/4, 16 November 2001; Joy Hyvarinen and Duncan Brack, *Global Environmental Institutions: Analysis and options for change*, London: RIIA, 2000.

close co-operation. Competition for scarce financial resources also raised doubts as to whether this approach to functional clustering could work. Finally, legal ambiguities surrounding the GEF's loose institutional arrangements raised questions as to whether it could be held directly accountable by the COPs for funding MEA implementation and, in turn, whether GEF could hold the Implementing Agencies directly accountable for performing their assigned functions.

In an effort to test whether these doubts were justified, this analysis looks for clues in GEF operations at both at the level of international governance and at the level of project design and implementation. At the level of international governance, the analysis has a dual focus. It assesses whether differences between the governance structures in the MEA's Conference of Parties (COPs) and the GEF Council have produced divergent or conflicting decisions. It also assesses whether the GEF's lack of a formal institutional status, and its consequent dependence on the World Bank, has adversely affected its ability to act as a strong and objective hub between the competing interests of the MEAs, the GEF's Implementing Agencies, and the governments and constituencies the GEF was established to serve.

At the project design level, analysis is directed at whether the GEF's consolidation of the financial mechanisms of multiple MEAs with different environmental objectives has led to projects that reap more than one global environmental benefit. It assesses whether, in performing this function, the GEF has helped ensure that projects funded under one MEA do not undermine the objectives of another MEA.

This modest Chapter does not draw upon original research, but instead bases its conclusions primarily on two recent documents. The first is the Second Overall Performance Study of the GEF: Final Draft⁵ (OPS-2), carried out by the GEF's Monitoring and Evaluation unit at the request of the GEF Council. This study was "designed to assess the extent to which GEF has achieved, or is on its way towards achieving, its main objectives" and produced a wide range of conclusions and recommendations aimed at all aspects of GEF operations.

The second document that provides the basis for this analysis is the Overall Structure, Process and Procedures of the GEF⁶ (OSPP). This document was prepared by the GEF Secretariat (GEFSEC) in response to requests of the GEF Council and in consultation with the GEF's Implementing Agencies, and contains recommendations on how the GEF structure might be reformed to take into account the lessons from OPS-2.

This chapter is therefore by no means comprehensive. It is intended, instead, to highlight that the GEF continues to be an instructive case study for efforts at improving global environmental governance.

⁴ Jacob. Werksman, "Consolidating Governance of the Global Commons: Insights from the Global Environment Facility", G Handl, ed., 6 *Yearbook of International Environmental Law* 27, Oxford University Press, 1995.

⁵ *Second Overall Performance Study of the GEF: Final Draft*, GEF/C.18/7, November 11, 2001 [hereinafter OPS-2].

⁶ *Overall Structure, Processes and Procedures of the GEF*, GEF/C.18/8, November 15, 2001 [hereinafter Overall Structure].

THE GEF'S NUTS AND BOLTS

The GEF's primary responsibility is to operate the financial mechanisms of the UN Framework Convention on Climate Change (UNFCCC) and the Convention on Biological Diversity (CBD). It is tasked with providing grant and concessional funding to assist developing countries in meeting the "incremental costs" of implementing their commitments under the UNFCCC and the CBD. The GEF receives most of its funds from those donor (industrialised) countries that are required under these Conventions to provide financial assistance to developing countries. The GEF then serves to channel these funds towards eligible projects in developing countries that support the Conventions' objectives. The GEF also funds projects in developing countries and countries with economies in transition to protect international waters, and to prevent ozone layer depletion. UNDP, UNEP and the World Bank act as the GEF's "Implementing Agencies", helping developing countries to design and implement eligible projects.

The GEF's legal underpinning is a Trust Fund, established by a resolution of the World Bank's Board of Executive Directors, with the Bank serving as the Trustee. Responsibility for dispersing the assets of the Fund are delegated through the "Instrument for the Establishment of the Global Environment Facility" (the GEF Instrument), to the GEF Council. The Council is composed of representatives of those countries that have agreed to participate in the GEF (GEF "Participants"). Countries join the GEF by submitting a Notification of Participation, and, if they wish to contribute to the Trust Fund, an Instrument of Commitment. The GEF's legal framework is further bolstered by the adoption, by the governing bodies of each of the Implementing Agencies, of a resolution, approving its participation in accordance with the GEF Instrument. Finally, the MEA COPs are brought into the legal framework through references to the GEF in their treaty instruments, through COP decisions that assign functions and provide guidance to the GEF, and by Memoranda of Understanding running between the COPs and the Council that set out the COPs' and the GEF's mutual expectations.

In accordance with the GEF Instrument, the Participants operate through an Assembly and a Council. The Assembly consists of all the GEF Participants, and meets once every three years to review GEF performance and to negotiate the replenishment of the GEF Trust Fund. The GEF's operations are overseen by the GEF Council, which consists of 32 Members, representing constituency groups formed by the Participants. The Council meets at least twice a year to review and approve GEF's operational policies and programmes and to approve tranches of projects proposed for funding. The day-to-day operations of the GEF are carried out by a Secretariat, under the direction of a Chief Executive Officer (CEO). The Secretariat is based at but is functionally independent from the World Bank.

The GEF Council is made up of sixteen constituencies representing developing countries, fourteen constituencies from industrialised countries and two constituencies from economies in transition. The Council takes decisions by consensus, but if consensus fails, decisions can be taken by a form of democracy that balances one country- and one dollar- one vote systems- through a double weighted majority: an affirmative vote must gain a 60% majority of the total number of participating countries as well as a 60% majority of total contributions.

MANAGING CONFLICTS AND PROMOTING SYNERGIES IN INTERNATIONAL GOVERNANCE

In order to perform effectively its role in consolidating functional aspects of the MEAs and of the Implementing Agencies, the GEF needs sufficient autonomy and authority to both promote synergies and avoid conflicts amongst competing interests and objectives. The GEF Council, supported by the GEF Secretariat, is required to hold the ring between potentially conflicting demands of the different MEAs that it serves, and between the different international institutions that serve as its Implementing Agencies. This would appear to require that the GEF have the ability to establish a transparent and accountable relationship with each of these entities, and to manage the relationships between these entities.

With regard to its relationship with MEA COPs the GEF Instrument provides that the Council shall “function under the guidance of, and be accountable to, the [COPs] which shall decide on policies, programme priorities and eligibility criteria for the purposes of the conventions.”⁷ With regard to the GEF Council’s relationship to the Implementing Agencies, the GEF Instrument indicates that these agencies “shall be accountable to the Council for their GEF-financed activities, including the preparation and cost-effectiveness of GEF projects, and for the implementation of the operational policies, strategies and decisions of the Council within their respective areas of competence.”⁸

However, when the GEF Instrument was adopted, aspects of the GEF’s institutional design appeared to place at risk its ability to perform these functions effectively. In particular:

- **The GEF’s governance and decision-making structure are different to the structures that govern the MEAs that the GEF is tasked to serve.** The GEF Council’s constituency and voting system is in sharp contrast to the universal membership and consensus-based decision-making procedures employed by the MEA COPs, and is also different from the governance structures of each of the three Implementing Agencies. Although each of these institutions strives for “universal membership” and enjoys a substantial overlap in parties, it is possible that international institutions with similar memberships, but different governance structures can generate inconsistent policies. Donor industrialised country Council Members in the GEF enjoy a disproportionately higher number of seats and more heavily weighted votes than developing country Council Members. Because the GEF Council operates on a constituency basis, while the MEAs do not, there is a potential for gaps to open up between the two governance systems.
- **The GEF is not an autonomous institution, and does not have the capacity to enter into formal legal relationships with other autonomous institutions.** One way of avoiding or managing potential conflicts between the COPs, the Implementing Agencies and the GEF, would be formalise through an international agreement the respective roles and expectations of each body. The mode of GEF establishment and the text of the Instrument do not appear to give the GEF and its Council legal autonomy. For example, while the Council may consider

⁷ GEF Instrument, para 6.

and approve arrangements with other international institutions, it will be the Bank, as Trustee that retains the power to "formalise" them.⁹ The GEF Instrument therefore left unresolved the issue of what legal form, if any, the links between the GEF and the COPs might take.

- **There is no clearly identified procedure for resolving “disputes” that might arise between the GEF and the COPs, or between GEF and the Implementing Agencies.** Although the Convention texts, the GEF Instrument and the MOUs set out the respective roles and functions of the COPs, the GEF and the Implementing Agencies, no clear and determinative procedure is established to resolve conflicts that might arise between them.

Many in the donor community suggested that informal arrangements, such as observer status for convention representatives at meetings of the GEF Council could answer concerns about accountability and transparency. Others, more sceptical about the GEF's ability to fulfil the Conventions' requirements, sought the advice of the UN Legal Counsel for suggestions on how best to structure this institutional experiment. After reviewing the GEF Instrument and the requirements of the UNFCCC, the Legal Counsel issued an opinion which suggested that the complexity of the relationship anticipated between the GEF and the Conventions demanded that this relationship be set out in a “legally binding treaty instrument”.¹⁰

In the end, each COP and the GEF opted to establish links through a “Memorandum of Understanding” (MOU) approved by each body.¹¹ These MOUs have since been interpreted to be non-binding in character.¹² The MOU between the GEF and the UNFCCC COP does anticipate the possibility that

[i]n the event that the COP considers that this specific project decision does not comply with the policies, programme priorities and eligibility criteria established by the COP, it may ask the Council of the GEF for further clarification on the specific project decision and in due time may ask for a reconsideration of that decision.¹³

But this provision does not clarify what procedure should apply if a disagreement between the COP and the Council persists.

With regard to the GEF Council's relationship to the Implementing Agencies, the respective roles of each agency and its relationship to the GEF Council are sketched out in the GEF Instrument and in the parallel resolutions each Implementing Agency adopted when endorsing the Instrument. These roles

⁸ GEF Instrument, para 22.

⁹ GEF Instrument, Annex B, Role and Fiduciary Responsibilities of the Trustee of the GEF Trust Fund, para 7.

¹⁰ Memorandum of 22 June 1994 to the Executive Secretary from Mr Hans Corell, Under-Secretary-General for Legal Affairs, The Legal Counsel, A/AC.237/74, Annex.

¹¹ See, e.g. the Memorandum of Understanding Between the Conference of the Parties to the United Nations Framework Convention on Climate Change and the Council of the Global Environment Facility, Decision 12/Cp.2, annex. UN Doc. FCCC/CP/1996/15/Add.1 (1996).[hereinafter UNFCCC-GEF MOU].

¹² Robin Churchill and Geir Ulfstein, “Autonomous Institutional Arrangements in Multilateral Environmental Agreements: A Little-Noticed Phenomenon in International Law”, 94 American Journal of International Law 4, p. 623.

¹³ UNFCCC-GEF MOU, para 5.

are provided a bit more detail in the “Principles of Co-operation Among the Implementing Agencies” contained in Annex D of the GEF Instrument, and were supposed to be elaborated further in an “interagency agreement” to be concluded on the basis of these principles. That interagency agreement was never negotiated. However, since the GEF’s establishment, the Council requested and received from each Agency further confirmation that it would assume full accountability to the Council for all GEF projects executed under its sponsorship.¹⁴

Thus the institutional arrangements that link the GEF Council to the MEA COPs and to the Implementing Agencies remain legally ill-defined. After eight years of operation, has the looseness of these arrangements undermined the GEF’s effectiveness?

THE COUNCIL AND THE COPS

Is there any evidence of the GEF Council either failing to abide by the guidance provided to it by the COPs, or of the GEF Council failing to manage any potential competition for resources between the COPs?

It has often been observed that tensions that arise between international institutions with overlapping memberships may have their roots in policy incoherence within the governments participating in these institutions. Divergence in policies between an environmental institution and an economic institution could be attributable to differences in policies between the environment and treasury ministries that represent that government at each institution. A quick review of the representation at GEF Councils and at MEA COPs suggests that, for many countries the same ministry does not take the lead at both institutions. Temporary difficulties could also arise from the operation of the GEF’s constituency system. Not all parties to the UNFCCC and the CBD have found a place on a GEF constituency. At present fourteen are effectively without representation on the Council until they can find a group that allows them to join.¹⁵ This raises the risk that GEF Council would produce decisions that were incompatible with the COP decisions, or that were incompatible with the policies of any of the Implementing Agencies.

Nonetheless, no specific dispute has, as of yet, arisen between a COP and the GEF Council with regard to the GEF’s conformity with COP guidance. This may in part be attributable to political developments since the Conventions and the GEF came into force. The north-south tensions that characterised the negotiations on the GEF Instrument have become less apparent as the Conventions and the GEF have fallen into routine operation. Thus far, all Council decisions have been taken by consensus, avoiding any potential political fall out from the application of the GEF’s controversial, double-weighted majority voting system.

¹⁴ Joint Summary of the Chairs, GEF Council Meeting 22-24 February 1995, Decision on Agenda Item 12: Accountability of Implementing Agencies for activities of executing agencies; Joint Summary of the Chairs, GEF Council Meeting 18-20 July 1995, Decision on Agenda Item 8: World Bank Accountability for Executing Agency Activities.

¹⁵ According the GEF website, “the Constituencies for the following new member countries are yet to be determined: Bosnia Herzegovina, Cambodia, Gabon, Grenada, Israel, Kazakhstan, Liberia, Libya, Malta, Namibia, Palau, Seychelles, Syria, Yugoslavia.”

It may also be possible to attribute the absence of conflict between the Council and the COPs to the overlap in individuals that play a prominent role in decision-making in both bodies. A comparison of the individuals currently Members and Alternates sitting on the GEF Council with attendees at the most recent UNFCCC COP, reveals that only ten of a possible 74 Members and Alternates also attended the COP.¹⁶ Nonetheless, the overlapping participation in the COPs and the Council of a number of key delegates, particularly those from developing countries, has undoubtedly helped to bring the two sets of institutions together. Council members have helped to explain and build acceptance for the operations of the GEF with colleagues in the COPs, and vice versa.

There is, however, evidence of developing countries, acting through the COPs, registering their continued disapproval of the GEF. This dissatisfaction is reflected, for example, in the continued reluctance of the majority of developing country delegations to formally acknowledge, by COP decision, the GEF's role as the operating entity of the Conventions' financial mechanisms. At present the UNFCCC COP continues to refer the GEF as "an operating entity" its financial mechanism¹⁷, while the CBD COP refers to the GEF as "the institutional structure operating the financial mechanism."¹⁸ This language implies that the GEF's relationship with the COPs will remain under review. Specific criticism of the GEF, when it is expressed, is aimed at the inadequacy of available financial resources and the slow pace at which those resources are converted into projects, and not at the GEF's governance structure.

Potential controversies have arisen in the course of the GEF's early operation that could have led to serious conflicts between the COPs and the Council. One arose from differences in the interpretation of the concept of "incremental costs". The UNFCCC, CBD and the GEF Instrument all indicate that funding for the bulk of the implementation activities to be provided to developing countries under the Conventions is to be limited to the "incremental costs" associated with that activity. Early analytical work carried out for the GEF Council began to construct a methodology for determining incremental costs that some developing countries felt was unduly restrictive. The GEF approach was to limit funding only to the costs of those activities that could be shown to implement the convention and to achieve "global environmental benefits." This raised concerns that funding for activities under the UNFCCC aimed at helping countries to adapt to the impacts of global warming, or activities under CBD aimed at conserving domestic biodiversity, could be excluded from the GEF portfolio.

The response of the UNFCCC COP was to express its concern over "difficulties encountered by developing country Parties in receiving the necessary financial assistance from the [GEF] due to, inter alia, the application of the [GEF] operational policies on . . . the application of its concept of incremental costs." The COP called on the GEF to "take steps to facilitate [the] provision of financial

¹⁶ Report of the Conference of the Parties to the UN Framework Convention on Climate Change at its Seventh Session, FCCC/CP/2001/13. [hereinafter Report of COP-7]; GEF website.

¹⁷ Report of COP-7, Decision 6/CP.7, Additional Guidance to an operating entity of the financial mechanism FCCC/CP/2001/13/Add.1.

¹⁸ Report of the Conference of the Parties to the Convention On Biological Diversity At Its Fifth Meeting UNEP/CBD/COP/5/23.

resources, including the enhancement of transparency and the flexible and pragmatic application of its concept of incremental costs on a case-by-case basis.”¹⁹

It would appear from the review undertaken by OPS-2 that the Council and the Implementing Agencies have responded to this guidance. Serious conflicts appear to have been avoided through a flexible and case-by-case application of the concept of incremental costs in the context of negotiations on the cost sharing between host countries and Implementing Agencies. Its flexible application has been particularly apparent in the context of biodiversity. It should be noted, however, that the OPS-2 has described it as “imperative” that the GEF develop clearer and more consistent guidance on the application of the incremental cost concept including methodology for measuring “global environmental benefits.”²⁰ If future conflicts are to be avoided, any effort to tighten the definition or application of the incremental cost methodology may need to be tracked carefully to avoid excluding projects that are supported by COP guidance.

The OPS-2 also noted criticism from certain Parties to the Biodiversity Convention, that the GEF project portfolio was “relatively weak in supporting activities leading to sustainable use and benefit sharing” of biodiversity.²¹ This has been one of the more controversial aspects of the biodiversity debate, as it implies the need for the intervention of international law and institutions into what might otherwise be a largely commercial relationship in order to ensure the “fair and equitable” sharing of benefits. OPS-2 concluded that the lack of GEF funding in this area “may be a reflection of the fact that the [CBD-COP] has not yet been able to provide clear and precise guidance on these matters to the GEF.”²²

Thus it can be suggested that potential conflicts were resolved or at least avoided through the iterative exchanges between a COP’s guidance and the Council, without, as of yet, creating the need for more formal arrangements or procedures. The OPS-2 found that while the GEF has been responsive to Convention guidance, this guidance has tended to be extremely general in nature. The level of generality found in COP guidance to the GEF does diminish the likelihood of a conflict. But it also makes it more difficult for the GEF to demonstrate its responsiveness to Convention priorities.

In the next stage of its development the GEF will face an increasing number of MEA bodies with which it will need to build co-operative relationships. The Stockholm Convention on Persistent Organic Pollutants (Stockholm Convention) will use the GEF as its financial mechanism, as will the Cartagena Protocol on Biosafety and the Kyoto Protocol to the UNFCCC. Each of these bodies will be autonomous institutional arrangement capable of producing guidance to the GEF as to how to direct its resources. OPS-2 has noted that increased competition for resources in the context of a growing diversity of GEF focal areas, may increase the strain on the GEF’s institutional arrangements.

¹⁹ Report of the Conference of the Parties to the UN Framework Convention on Climate Change at its Second Session, Decision 11/CP.2, Guidance to the Global Environment Facility, FCCC/CP/1996/15/Add.1.

²⁰ OPS-2, para 186, and paras 460, et seq.

²¹ OPS-2, para 186.

²² Id.

THE COUNCIL AND THE IMPLEMENTING AGENCIES

Perhaps the GEF's greatest potential for promoting synergies through its system of governance is by bringing together the Implementing Agencies that are often institutional rivals, through a common institutional framework. During a period when the roles and budgets of each of these three institutions have been under heightened scrutiny, the GEF has had the potential to become a forum for fierce competition for credibility and resources.

Each of the agencies was intended to fulfil its role in accordance with its respective "comparative advantage" set out in Annex D of the GEF Instrument. UNDP is to play the primary role in capacity building and technical assistance, UNEP in scientific and technical analysis, and the World Bank in managing investment projects. While these roles would appear to be reasonably well defined, developments since the adoption of the GEF Instrument have helped to blur distinctions and increase the potential for competition. In their early years, both Convention COPs have instructed the GEF to focus its funding on so-called "enabling activities", i.e., those projects designed to help developing countries prepare for the implementation of their commitments under the treaties. Under both climate change and the biodiversity conventions, enabling activities include the preparation of national inventories, planning exercises and reports, and thus entail a mixture of technical assistance and capacity building. Each of the Implementing Agencies has been able to justify its involvement in a share of this kind of project.

While far smaller than the World Bank, the GEF's available resources approach the combined budgets of UNDP and UNEP. For UNDP and UNEP, this has meant that participation in the GEF experiment has proved extremely influential on their internal operations. The influence can be positive, by mainstreaming global environmental concerns into general developmental and environmental objectives. GEF participation has also proved beneficial by providing collateral financial and technical benefits to aspects of UNDP and UNEP operations that may not have survived in the absence of GEF funding. There is, for example, anecdotal evidence that some UNDP country offices have benefited from support staff and equipment that could not have been maintained without funding from GEF projects.

It is possible, however, that access to the GEF's resources may have distorted priorities within these agencies. The GEF's focus on global environmental issues is necessarily narrow and top-down, and may have diverted attention away from higher environment and development priorities of developing countries such as access to potable water and urban air quality. What the OPS-2 refers to as the GEF's strength in leveraging co-financing from Implementing Agencies and other sources of development assistance, can also be characterised as a distortion of resource flows that might have otherwise gone to domestic environmental or developmental priorities without the requisite "global environmental benefits."

OPS-2 noted both the benefits of mainstreaming of global environmental concerns into the work of the three Implementing Agencies and the risks posed by competition amongst them. It suggests that, after an initial difficult period, the competition has proved increasingly positive. OPS-2 also notes, however, that the challenge of managing these relationships is likely to increase over the next stage in

the GEF's development. The GEF has begun to expand the range of agencies that are authorised to implement GEF-funded projects. Seven new "Executing Agencies", including regional development banks and UN specialised agencies are now eligible to carry out projects in co-operation with the three original Implementing Agencies.

CONFLICTS AND SYNERGIES AT THE PROJECT LEVEL

By funding projects that support the implementation of more than one MEA the GEF could be expected to face challenges, in the context of the design of specific projects, where the MEAs' objectives conflict, and to be presented with opportunities for synergies where MEAs' objectives coincide.

With regard to avoiding projects with conflicting objectives, the GEF Instrument prevents the funding of projects that "do not fully conform to the guidance from the relevant Conference of the Parties" of the UNFCCC and the CBD. Projects in the GEF's ozone portfolio "will be consistent with those of the Montreal Protocol on Substances that Deplete the Ozone Layer and its amendments." While these directives don't expressly prohibit the GEF from funding a project in one focal area that might be inconsistent with the objectives of another focal area, the obligation to avoid such conflicts is implicit.

Specific conflicts could have arisen between climate and biodiversity, as well as between climate and ozone. Fast-growing monoculture trees can help manage greenhouse gas emissions by fixing carbon, but they can also contribute to the loss of biodiversity. The GEF's climate change portfolio has, however, avoided investments in such carbon "sinks" projects, focusing instead on technologies and practices aimed at limiting emissions at source. Some chemicals promoted as replacements for Ozone depleting substance in the course of the implementation of the Montreal Protocol are powerful greenhouse gases and their widespread use could undermine efforts to combat global warming. To avoid such conflicts, the GEF operational policy on ozone provides "the GEF will fund the conversion to the technology with the least impact on global warming that is the technically feasible, environmentally sound, and economically acceptable."²³

With regard to promoting synergies across focal areas, the GEF has developed an operational program specifically directed at "bringing synergy between three of the GEF focal areas (i.e. Biological Diversity, Climate Change, and International Waters) and land degradation to optimize multiple benefits."²⁴ The GEF Secretariat has also been involved in efforts amongst Convention experts and delegations to try to identify and exploit potential synergies between biodiversity and climate change, including with regard to project implementation.²⁵

²³ See *Operational Strategy of the Global Environment Facility* for descriptions of principles governing each of the GEF's focal areas.

²⁴ GEF Operational Program #12: Integrated Ecosystem Management, April 2000.

²⁵ Report of the first meeting of the ad hoc Technical Expert Group on Biological Diversity and Climate Change, Helsinki, 21-25 January 2002, UNEP/CBD/COP/6/INF/6.

Having reviewed the GEF's initial efforts to exploit synergies through a multi-convention Operational Programme, the OPS-2 concluded that the GEF should "exercise some caution."

While having some appeal in the sense of being provided opportunities for a more holistic approach, it should be kept in mind that specific convention-related objectives should be kept firmly in mind when setting project objectives. The long history of implementation experience from various types of integrated and multi-purpose projects clearly show very high 'mortality rates'. GEF would be well advised to avoid falling into the trap of many current international organizations which seem to be unable to focus on operational priorities and appear to succumb to the ill-advised temptations to support project designs which serve many objectives indiscriminately and ineffectually.²⁶

This word of caution may be increasingly relevant as the GEF is asked to expand the number of MEAs it will serve, and the number of focal areas to direct its resources. The addition of the Stockholm Convention to the list of GEF-serviced MEAs, and the eventual entry into force of the Cartagena Protocol on Biosafety and the Kyoto Protocol will increase the challenge of this balancing act. While Kyoto is unlikely to result in a shift in the GEF's climate change funding, supporting developing countries in the regulation of POPs and in biosafety will be a new venture for the GEF.

REFORMING THE GEF'S OVERALL STRUCTURE

In light of the many complexities raised in this paper, the Secretariat has proposed that the loose institutional arrangements that have characterised the past eight years of the GEF's operations be strengthened and clarified. It has identified a number of areas in which the GEF's reliance on other agencies to carry out its functions has constrained its ability to operate effectively. Because the GEF Council sits at the end of a project cycle that originates in each of its eligible countries and passes through three or more separate agencies, it cannot ensure the country-driven nature of the projects it funds, nor the balance of projects across geographical regions. Short of developing its own institutional presence within recipient countries, to address this challenge, the GEF would need to increase its leverage with the Implementing Agencies.²⁷

Supported in part by the recommendations of OPS-2, the GEF Secretariat has flagged the need to "specify the autonomous institutional authority of the GEF." The main reason given for the change is to provide the Secretariat with the authority necessary to enter into arrangements and agreements with a growing number of partners. The Secretariat has proposed two means by which this greater clarity could be achieved: through "instruments of delegation of authority" from the World Bank, as Trustee, to the Secretariat, or through an amendment of the GEF Instrument.

The response thus far of the Implementing Agencies to this call for a greater formal independence of the GEF Secretariat has been sceptical. UNDP, UNEP and the World Bank seem to have set aside any institutional rivalries to arrive at a common agreement that transforming the GEF into a formally autonomous institution is not necessary. This consensus may in part derive from a concern that the

²⁶ OPS-2, para 172.

²⁷ Overall Structure, para 13(b), and para 30.

GEF not overwhelm the institutions that created it. Furthermore, amending the Instrument for this narrow purpose might invite an unravelling of the delicate package that has functioned reasonably well over the past decade.

CONCLUSIONS

Ambivalence in the MEA/GEF relationship

1. MEA COPs, primarily through developing country delegations, continue to express some dissatisfaction with the GEF. This dissatisfaction is reflected, for example, in the continued reluctance of the majority of developing country delegations to formally acknowledge, by COP decision, the GEF's role as *the* operating entity of the Conventions' financial mechanisms. However, specific criticism, when it is expressed, is aimed at the inadequacy of available financial resources and the slow pace at which those resources are converted into projects, and not at the GEF's governance structure. It is not clear whether this dissatisfaction is in any way grounded in continuing concerns about the GEF's governance structure (perceived dominance by donors, dependence on the World Bank, and a lack of direct accountability to the COPs) that formed the basis of earlier criticisms of the GEF.
2. No specific disputes have arisen involving a divergence of policy at the COP and at the Council levels. The OPS2 found that while the GEF has been responsive to Convention guidance, this guidance has tended to be extremely general in nature, diminishing the likelihood of a conflict, but also making it more difficult for the GEF to demonstrate its responsiveness to Convention priorities. Any apparent coherence can be attributed only in part to a small degree of overlap in the individuals that represent their governments at both the COP and the Council.
3. Since Rio the GEF has been invited by MEA negotiators to operate the financial mechanisms of the Kyoto Protocol, the Cartagena Biosafety Protocol, and the Stockholm Convention on Persistent Organic Pollutants. The GEF also provides support, through its land degradation portfolio, to the UN Convention to Combat Desertification. At one level, this could be taken to reflect a growing confidence in the GEF's effectiveness as a financial mechanism generally, and as financial mechanism with the specific function of consolidating governance of more than one MEA.

Consolidation and the overall availability of financial resources

1. However, continued calls for the GEF's involvement in the financial mechanisms of new MEAs may also reflect, in the context of an overall decline in ODA, the GEF's position as the only regularly replenished source of funding for the global environment. Some concern has been expressed that the GEF's growing popularity, and the consequent expansion of its focal areas, could "overburden" the GEF's already limited resources.

2. Consolidation can lead to greater institutional efficiency, but it may also provide a means for capping and containing developing country demands for increased resources.

Synergies at the project level

1. There is evidence that the GEF's position at the centre of more than one MEA has helped it to avoid funding projects in one focal area that could have undermined the objectives of another focal area. For example, its climate change portfolio has not included sequestration projects, which have been criticised as carrying the risk of promoting forestation projects with an emphasis on monoculture, rather than species diversity. Projects that hold the potential to interact with more than one focal area are grouped in a multifocal programme area of its own, which promotes investments consciously designed to be complementary across MEA objectives. OPS-2 has cautioned that the "GEF would be well advised to avoid falling into the trap of many current international organizations which seem to be unable to focus on operational priorities and appear to succumb to the ill-advised temptations to support project designs which serve many objectives indiscriminately and ineffectually."

Consolidation and competition amongst implementing agencies

1. The consolidation of more than one Implementing Agency into the GEF's operations has led to a degree of competition amongst these agencies, and competition can be healthy. All three agencies are required to report regularly to the GEF Council on their GEF-related portfolios, and have also been called upon to demonstrate, for example, the extent to which they have "mainstreamed" global environmental concerns into their operations. Participation by UNDP, UNEP and the World Bank as GEF Implementing Agencies has led each of these institutions to direct higher levels of resources towards global environmental objectives than they might otherwise have done.
2. Efforts are underway to promote greater "healthy" competition amongst the IAs and other agencies with the capacity to design and implement GEF projects. These include expanding the number of "executing agencies", including regional development banks and NGOs, as well as the introduction of a "fee system" that would allow agencies to recoup the administrative costs of designing and implementing GEF projects.
3. There appears to be a shift from the UN v. Bretton Woods dynamic that characterised the relationship between the Implementing Agencies during the GEF restructuring. Recent proposals from the GEF-SEC to confer upon the GEF an "autonomous institutional authority" have drawn criticism from all three Implementing Agencies. This suggests that these Agencies share a common concern that the GEF's consolidating role should not expand to an extent that it becomes an institutional rival.

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