

# **The Legitimacy of the United Nations Environmental Programmes Law-Making Power**

## **Abstract**

More and more international organizations exert powers which formerly belonged to nation states. One of these organizations is the United Nations Environmental Programme. With the growing awareness of environmental matters, its powers will probably even grow in the future.

This thesis deals with one of the possible problems with this development: legitimacy. In other word it will analyze how legitimate the law making powers of the UNEP are.

In order to do this a concept of legitimacy containing the mandate, transparency and public participation will be applied to the making of two explicit regulations made by the UNEP.

This analysis will show that the older one was to a lesser extent legitimate than the newer one.

This will be most visible with the factors transparency and public participation. But also in those an improvement over time can be seen and a positive outlook for the future of the UNEP can be given.

## List of Abbreviations

DCPI	UNEP's Division of Communications and Policy Information
DEPI	UNEP's Division of Environmental Policy Implementation
DPDL	UNEP's Division of Policy Development and Law
EU	European Union
FAO	Food and Agriculture Organization
GA	General Assembly
GCSF	Global Civil Society Forum
GMGSF	Global Major Groups and Stakeholder Forum
IO	International Organization
MEA	Multilateral Environmental Agreement
NGO	Non-Governmental Organization
PIC Procedure	Prior Informed Consent Procedure
SEA	Strategic Emission Assessment
UN	United Nations
UNCED	United Nations Conference on Environment and Development
UNEO	United Nations Environment Organization
UNEP	United Nations Environmental Programme
WHO	World Health Organization
WTO	World Trade Organization

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## 1 Introduction

The first thing which comes to mind for most people when talking about international law making is probably treaties conducted between states, maybe with some influence of international organizations (IO). But still states, representing their populations, decided on the content of these treaties or agreements. If they did not like the possible outcome they vetoed them or just left the table. Over time a new form of international law making emerged. The main difference of this new international law making is that states are no longer at the center of international decision making, but international organizations and institutions. It goes as far as regulations and rules entirely made by those IOs.

Treaties are still concluded by states but especially soft law is growingly done mostly by those international organizations. Of course states can still decide not to comply with these soft laws, but different than with especially bilateral agreements between states, non compliance is often enough not possible or at least not feasible. One reason for this is that the international organizations making these decisions have quite a number of member countries in average. This is best understood when looking at regulations made by the WTO (World Trade Organization). If one country decides not to comply, it is, to some extent, certainly free to do so but the costs of non compliance will probably be so high that it would be more feasible to agree with regulations or laws that are not 100% as one wishes than to be the only one not complying.

A problem with this kind of law making is that IOs exercise to some extent powers which were originally only subject to states themselves. One could argue that states gave up this power willingly when they created these new organizations and laid down their goals, because they had to know that these organizations needed some form of power in order to meet these goals. Therefore the problem is not so much that states lost powers to international organizations but that the checks and balances did not transfer with these powers to the international level. Especially in democratic countries an apparatus of checks and balances with independent courts and elected parliaments is in place. How efficient these are in reality is not of so vital importance here, fact is that they exist. But they do not on the international level. Even if international courts do exist they do not have the assignment or even the

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authority to decide upon the legality of rules and regulations made by international organizations.

Also no elected parliament on an international level exists. The only institution coming close to this is the European Parliament which is elected on a five year basis by the citizens of the entire member states of the European Union (EU). But still its power is not as great as a national parliament and it can only influence EU legislation at best. Rules and regulations made by other organizations like the United Nations (UN) or WTO are outside of its jurisdiction.

Citizens of member nations of an IO do not have a direct say in the set-up, the members or the working of these organizations, but they have to obey the rules they make. Of course most of the regulations and rules made by the organizations do not affect citizens directly and are not even made to be, but often enough people are affected in some way when the state has to comply with rules made by an organization and has to make some adjustments in order to be able to do so.

This thesis will analyze how legitimate these rules, decisions and regulations made by international organizations are. This does not necessarily solve the problem of nonexistent checks and balances but it would nevertheless give these organizations the right to have the power to make regulations that affect a great number of people. If decisions are not legitimate, based on a concept of legitimacy introduced later in the thesis, then changes to the international organizations should be made. If they are indeed legitimate, then it does not matter much that these organizations are not elected or may even escape jurisdictional inspection.

This thesis will have a look at one explicit international organization, namely the United Nations Environmental Programme (UNEP). This case is of great importance due to several reasons. First awareness of environmental issues like global warming is growing due to well known persons like Al Gore informing about it and other awareness rising happenings like the Earth Day.

Second the belief that environmental issues are best dealt with on an international level rises (Eurobarometer, 2008). If every state does its own work to protect the environment without an outlook how this affects other states, solutions will not be lasting. Especially if the industrialized states, which are mainly responsible, for example for the carbon dioxide in the

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atmosphere, do not see the problems they are causing to developing countries. Those do not have the assets to deal with environmental issues like global warming the way the industrialized countries can. Lastly experts are currently discussing the possibility to enhance the power of the UNEP by turning it into a United Nations Environmental Organization (UNEO). Such an organization would have more power than the UNEP already has and therefore a problem with legitimacy would be even worse. Plus if such an organization would really be decided upon, this would be the perfect time to come up with changes that could enhance its legitimacy. In order to explain this, two soft law regulations made by the UNEP will be analyzed. This will allow for identifying a change in the legitimacy of the UNEP over time with a possible outlook for the future.

With all these aspects in mind the general research question of this thesis is as follows: “Are rules and regulations made by the United Nations Environmental Programme legitimate?” This is of course a rather broad question. During the operationalization of the concept of legitimacy some other sub questions may come up. They will be introduced and explained if necessary.

The thesis will be structured in the following way: first the concept of legitimacy used in this thesis will be explained. This conceptualization will be based on some of the most important literature in this field of study. Of course the authors and concepts mentioned are not exclusive and only represent a small part of the different ways to deal with ‘legitimacy’. The research design chapter will introduce the operationalization of legitimacy, which means how this, as it has been conceptualized prior, will be measured. After this methodology part the case itself, the United Nations Environmental Programme, will be introduced. The fourth part will deal with the actual analysis and therefore combine the findings of the chapters about legitimacy and UNEP. The Conclusion will end the thesis while bringing all arguments together.

## 2 Legitimacy

Legitimacy is a wide concept with several definitions and interpretations. Authors and scholars focus on different aspects and therefore no consistent legitimacy concept exist. A short overview of some of the legitimacy definitions used in the literature will be discussed now in order to formulate a concept of legitimacy usable in this thesis.

Bernstein distinguishes three different forms of legitimacy: a democratic, a legal and a sociological conception of legitimacy (Bernstein, 2004). The first one contains factors like accountability, transparency, access to participation, deliberation and to some extent even the fairness of decisions made. Legal legitimacy on the other hand does not deal with a regulation per se and if it is 'right', but more with the question if the institution making this regulation has the acceptance of the people who have to follow these rules. The last part of legitimacy is based on the shared beliefs of the people that have to follow these rules. Important are values and norms with which regulations are tested for their confirmation with them. If a regulation complies with the general set of norms accepted in the society it has a greater legitimacy than a rule going against the norms. Even if these three parts of legitimacy can be distinguished they are all equally important. An institution cannot be called legitimate if it lacks a desirable amount of legitimacy in any of these fields.

Bodansky also dealt with legitimacy but he focuses on environmental law. He divides legitimacy into two dimensions, a sociological and a normative one. The first one is quite similar to Bernstein's sociological concept of legitimacy (Bernstein, 2004). Here again it is of importance what people think about the institution itself which makes decisions and if they think that it has the right to do so. Bodansky also calls this 'popular legitimacy' (Bodansky, 1999).

The normative dimension deals with the question if an institution is justified to make decisions on a more objective basis. Sadly he does not elaborate further on how this objective justification could be measured. This division goes back to the understanding of legitimacy being concerned mostly with the justification of authority. Seeing that especially

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environmental law has been made mostly by consensus rather than authority, which gave it some form of legitimacy, he offers other forms or theories of legitimacy to deal with this sphere. First he distinguishes between specific and general consent and then adds legal legitimacy. The last is similar with how Bernstein used this term. He then explains that legitimacy in environmental law faces a crisis, because this consent as a basis for legitimacy loses its power and gives two possible solutions for it. First he connects legitimacy to the concept of democracy. With different definitions for this concept existing he sees it as including first a government based on popular elections and majority voting, second political equality among states and thirdly an open government which is transparent and allows public participation (Bodansky, 1999). But he himself states that especially the last aspect is difficult to achieve especially on the international level and not enough to justify an institution as being legitimate. Another possibility to raise legitimacy is to use more experts. But again Bodansky himself shows the weakness of this approach. First greater expert influence is in strong contrast with public participation. Second even if experts can help to understand a situation and possible outcomes better, the end decision on what to do e.g. which law or regulation to approve of, is still a political one. Finally the opinion on what is feasible and 'good' in a specific situation may differ between an expert and the general opinion. Overall this article shows that many different ways to approach the concept of legitimacy exist and how Bodansky states at the end, no real strong and commonly agreed on theory about legitimacy exists (Bodansky, 1999).

Another way of dealing with legitimacy is shown by Buchanan. He puts more emphasis on the moral aspect and claims that an organization is only legitimate if it is morally justified to have the power of decision making (Buchanan, 2004). In detail this means that it has to protect at least the main basic human rights and should not rely on processes or actions that could harm human rights in any way.

Kumm on the other hand breaks legitimacy into four principals (Kumm, 2004): formal legitimacy says that citizens follow a law or regulation simply because it exists. Jurisdictional legitimacy is about subsidiarity. According to this approach an international organization would have to explain why it is better fit to deal with an issue than an organization on a more



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domestic level.

The third principal is procedural legitimacy and contains aspects like participation and accountability.

The final principle is outcome legitimacy and deals with the end product of an international process of law or rule making. According to Kumm a ‘bad’ outcome does undermine the legitimacy of the organization who decided upon the rule that lead to this outcome (Kumm, 2004). Unfortunately he does not further explain who decides if an outcome is bad or not and how to do this.

Similar to Kumm’s notion of ‘bad’ outcome is Scharpf’s definition of output legitimacy (Scharpf, 1999). According to this form of legitimacy regulations are legitimate when they have the “capacity to solve problems (Scharpf, 1999)”. In contrast is the input legitimacy which bases on the will of the general public being incorporated into a regulation.

As mentioned above no common theory on legitimacy exists. Every author has his own preference on what fact or part of legitimacy he is most interested in. It is therefore not possible to just state that legitimacy theory will be used in this bachelor assignment.

Instead I will now present which parts of the different approaches will be incorporate in this research. In other words I will construct a specific concept of legitimacy which will be used in the bachelor thesis. Legitimacy will be split into two parts: legal- and democratic legitimacy. The first will deal with the legal authority an organization has, that is the mandate given to it. This is interesting to analyze because the mandate was given to the organization by the nations through the UN. It is therefore interesting to see if these mandates already allow for the making of regulations that would and could affect these nations or if the organization acts outside its mandate.

The second will incorporate transparency and the possibility of public participation. The reason for this choice is that these two were named in most of the literature and therefore seem to be most commonly accepted to be part of legitimacy. With a concept so diversely defined by authors it is important to incorporate an aspect on which most of them can agree and that is the case with transparency and public participation. Another reason for these three factors (mandate, transparency and public participation) is that those can be applied to the making of regulations by the UNEP. This is of importance because

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a difference between the legitimacy of the UNEP as an organization and its law-making power exist.

## 3 Research Design

The following chapter will now give an overview over the research design of this thesis and the operationalization of the concept of legitimacy as it was defined in the preceded chapter.

The data for this thesis will be found in articles like the one described above or in official statements of the United Nation Environmental Programme itself. The actual analysis contains the connection of these data found. Facts about how the UNEP makes decisions have to be analyzed with regard to the operationalization of legitimacy. It is important to do the operationalization before gathering data on UNEP in order to not unconsciously choose operations which will lead to a certain outcome.

Out of the conceptualization of legitimacy several sub questions can be formulated. The first one is: “Does the UNEP operate within its mandate?”, secondly “How transparent are regulations made by the UNEP?” and the last sub-question is “Does the UNEP allow for public participation?” In order to answer these three questions two specific regulations made by the UNEP will be analyzed. As with the overall case it has to be taken into account that only two regulations are not necessarily representative for all of the UNEPs work.

Out of this sub-question the operationalization of the concept of legitimacy can be deduced. Legitimacy is a qualitative variable and therefore difficult to measure in countable numbers. First the operationalization of the mandate will be dealt with. Mandate means the objectives and tasks given to UNEP by its founders, namely the UN General Assembly (UN GA). It is written down in the UN GA resolution 2997 (XXVII). Some changes have been done since then so the up-to-date version has to be used. Accordingly, the specific regulations made by the UNEP have to be compared with its mandate to see if they are consistent. This can either be entirely the case, or not at all or some overlaps exist where it has to be researched if it can be called legitimate or not.

Next we will take a look at transparency. Transparency means the documents and information found on the internet, provided by the UNEP itself. This includes of course

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official documents and regulations but also agendas and minutes of meetings in order to have a look at the decision procedure. One Factor that can influence the analysis of transparency is if these documents are written in a way which is only understandable for persons who are very familiar with the topic. Legitimacy is based on the majority of the public which in most cases does not have a distinctive knowledge about especially highly technical issues. Still information should also be understandable for them.

This explains as well why information is important for active public participation. People will not get involved with issues they know nothing about. Accordingly a strong linkage between transparency and public participation has to be kept in mind during the analysis. It is with good cause why both are combined under the heading of democratic legitimacy.

Public participation is split into public consultation with e.g. public survey and active public participation.

Public surveys are the best mean of public consultation. It has to be kept in mind though that a survey concretely about the UNEP and its work will be difficult to find. Public participation takes this one step further. It means that the public or at least experts are able to give their opinions on matters discussed by the UNEP before decisions are finalized. It has to be kept in mind that people who get involved in policy making are seldom representative for the whole public. A factor that could influence the legitimacy claim of public participation is if the international organization, in this case UNEP, decides who is able to take part and actively excludes specific groups. This would be the case if only experts are allowed to air their opinions on matters discussed. The opinion of experts is of course of great importance but this thesis will understand public participation in a broader sense, incorporating every group concerned by this topic, being it the general public, Non-Governmental Organizations (NGO) or these experts.

Overall it can be said that if the UNEP lacks legitimacy in one of the three parts, general legitimacy for the whole organizations cannot be given.

Now an explanation about the choices of the two cases of soft law made by the UNEP will be given.

They were chosen in order to show a possible change in the legitimacy of decisions made by

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the UNEP. The first one the London Guidelines for the Exchange of Information on Chemicals in International Trade (called 'London Guidelines' in the following analysis) are from 1987 and therefore are not one of the first ones made by the UNEP after it was created by the UN in 1972, but by using a regulation made several years after the UNEP started its work, gives it a change to get accustomed to its functions and goals. The second case is the 2002 Guidelines for the Enforcement of and Compliance with Multilateral Environmental Agreements (short 'MEA Guidelines'). They were chosen because they are the newest one to be found on the official list of non-legally binding instruments on the UNEP website. Several other reasons exist. Firstly the London Guidelines were mentioned by Alvarez as being an example of regulation making by UNEP (Alvarez, 2005). It can therefore be assumed that this guidelines fall under the law making power of this IO. Secondly the London Guidelines were chosen because of their content. Not only are they complementary to UN and World Health Organization (WHO) instruments and the Food and Agriculture Organization (FAO) Code of conduct on this matter but they also contain and explain the PIC (Prior Informed Consent) procedure. Even if this procedure is voluntary it was meant to significantly help in the trade of potentially hazardous chemicals. According to Sands by 1998, more than 150 countries had designated national authorities with the sole reason to implement the PIC procedure (Sands, 2003). So even if the implementation proved difficult, this number shows that this procedure and therefore the London Guidelines which contains them have a strong peer pressure potential. In other words, even if these Guidelines are only made as being soft law they still may have quite an impact in the international community. One reason why the MEA Guidelines are important for this thesis is that they are firstly the latest soft law conducted by the UNEP according to its website and secondly got some complementary documents after their adoption, which allows even to take a look at how the UNEP works after 2002 to some extent. A third reason is the importance of these Guidelines. With the growing range of MEAs, for example the Kyoto Protocols, a better function of these MEAs is needed and therefore Guidelines for their Enforcement and Compliance can have a great impact.

It has to be kept in mind that these two cases deal with two different aspects, the London Guidelines with chemicals and the MEA Guidelines with a more general topic, the

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compliance and enforcement of MEAs. This makes it harder to generalize the possible findings, but on the other hand it is important to have a look at different cases in order to incorporate the several environmental issues the UNEP has to deal with. Furthermore the MEA Guidelines are also already from 2002 but they are the latest one on the official list of non-legally binding instruments on the UNEP website. In other words these Guidelines are the latest to be found. It has to be kept in mind that the working of the UNEP in the three factors of legitimacy of importance in this thesis might have changed since 2002. Therefore only a change over time with a possible outlook how UNEP operates right now can be given.

The following chapter will give an overview over the UNEP itself in order to answer the sub-questions defined in this chapter.

### **4 UNEP**

But why was UNEP chosen as the case to be analyzed? Three reasons for the UNEP as a case exist: firstly is the current interest in environmental matters. Especially in the last few years environmental awareness has grown and with it the realization of e.g. global warming and the need for regulations and laws concerning the environment. This brings us to the second reason: the environment is a field which is hardly covered sufficiently on the national level. In order to come up with regulations and laws that ensure a healthy environment for all people on this planet international agreements have to be reached. Therefore the UNEP as the environment entity inside the UN is of particular importance. Even if its power to make hard law is limited, it does take part in making soft law and offers expertise. The argumentation for the UNEP as a case to be analyzed on its legitimacy is therefore that an organization that contributes to such an important task which influences the lives of all people living on this planet should have a legitimate ground to base its work on. The third reason for choosing the UNEP is somehow connected to the other two. With the growing importance and awareness of environmental matters, some experts have started to call for an environmental organization with even more influences and competences than the UNEP has right now. If such an organization should come into being it would be helpful to

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have some insight into the UNEPs work and if it was legitimate when taking it as a basis to build the new organization on. In other words if the findings show that the UNEPs soft law making is indeed legitimate, its structures can be adopted into the new organization. On the other hand if this thesis shows that regulations made by the UNEP are not at all or only partly legitimate this also does have implications for the future, especially if such an environmental organization should be established. Realizing where flaws in the UNEPs legitimacy are, it could be kept in mind when deciding how the new organizations should look like and how it should work. This is because if such an organization lacks legitimacy people will be less motivated to follow the established rules of this explicit organization. Especially in the field of environment lacking participation of the population could be fatal. This of course does not only apply for a new international environmental organization but also for the UNEP itself. Especially if it should remain to be the head environmental organization, lacking legitimacy should be identified in order to take actions to change this. Because even if a new environmental organization loosely based on the UNEP will not come into being, it is still possible that the UNEP itself will gain more competencies and these cannot be legitimate if the current work is not legitimate to begin with.

But what exactly is UNEP? This question will be answered now by giving a short overview over UNEPs organization and work. UNEP was established in the United Nations General Assembly resolution 2997 (XXVII) in 1972 after the UN Conference on Human Environment in the same year. As a programme it is a subsidiary organ of the General Assembly and therefore has less power than for example real organizations like the WTO. It consists of a Governing Council, with 58 members selected for four years (UNEP, 2006c), and a secretariat with its headquarters in Nairobi, Kenya. Its mission is to deal with environmental issues in the name of the UN. It is further divided into several sub-divisions which deal with explicit aspects like policy development (Division of Policy Development and Laws DPDL) or the implementation of these policies (Division of Environmental Policy Implementation DEPI). Particularly interesting for this assignment is the Division of Communication and Public Information (DCPI). DPDL also deals with information exchange and the involvement of the private as well as public sector in the UNEPs work and decision making. The UNEP does not only work on a global level but also on the regional one. This is done through regional offices for Africa, Asia and the Pacific, Europe, Latin America and the

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Caribbean, for North America and one office for West Asia. These regional offices can also be split into smaller offices to deal more efficiently with specific regional demands. The regional office for Europe based in Geneva for example keeps three out posted offices in Moscow, Vienna and Brussels. The latter of course is important to ensure a good cooperation with the EU. Especially the European Commission is a great partner of UNEP. The EU is in favor of upgrading UNEP to a United Nations Environment Organization (UNEO) (Communities, 2008).

As a basis for environmental law activity by the UNEP serve the “Montevideo Programmes for the Development and Periodic Review of Environmental Law” which are conducted for a ten year period to be adopted by the UNEP Governing Council. The current Montevideo Programme III as well as the next one (Montevideo Programme IV for the 2010s) were drafted up at a meeting of senior government officials expert in environmental law (UNEP) before they were adopted. Important for this thesis is objective 7 of the current Montevideo Programme III, which states ‘*to improve the quality of decision-making in environmental matters through increased transparency, access to information and public participation (UNEP, 2001a)*’ because it deals with aspects which have been identified as core parts of legitimacy. The Midterm review of Montevideo Programme III however shows that the aspect of increased transparency, access to information and public participation is mostly meant not to be about the UNEP itself but especially about developing countries (UNEP, 2005b). The UNEP therefore tries to help those countries to be more transparent etc. themselves.

The next chapter will deal with the analysis of the three factors of legitimacy for the London and MEA Guidelines with a possible outlook for the future.

## 5 Analysis

The following chapter will deal with the analysis of the UNEP. First a general overview will be given and then all three aspects of legitimacy elaborated earlier in this thesis will be dealt with separately. Each of these three factors will have a general part at the beginning which gives a broad overview over the historical change of these issues. This will help to have a

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clearer picture about what has changed after the second case and how it will possibly change in the future.

The official website distinguishes between non-legally binding decisions UNEP took part in and Multilateral Environmental Agreements. The UNEP itself calls these soft and hard laws respectively. Soft Law in this context means non-legally binding instruments in contrast to hard laws like treaties. But seeing that the list of the MEAs dates back till 1933 nearly 40 years before the UNEP was established, it is questionable if it plays such an important role in them. These MEAs were obviously concluded even without the UNEPs cooperation so it is probably not taking charge in them now and instead is only giving advice. More important are then the soft-laws. They range from the ‘Global Programme of Action for the Protection of the Marine Environment from Land-based Activities’ from 1978 over the ‘Management of Hazardous Waste (1987)’ until the latest in 2002 ‘Guidelines for the Enforcement of and Compliance with Multilateral Environmental Agreements (UNEP)’. On average the UNEP came up with one non-legally binding instruments every two years with a peak 1987 with six in total just in this specific year (UNEP).

On its website the UNEP states that it uses its soft-law often as a basis on which it can negotiate legally binding agreements (UNEP). This shows how important even soft-law made by international organizations can be. Existing regulations are easier to be introduced into an ongoing negotiation especially if it can be shown or proven that these soft-law instruments do the job they were created for. In the following part of the thesis these soft-law decisions made by UNEP will be analyzed on their legitimacy, based on the criteria introduced earlier in this thesis.

## 5.1 Mandate

### 5.1.1 General

First UNEPs mandate will be analyzed in order to answer the previous established sub-question: ‘Does the UNEP operates within its mandate?’ When creating UNEPs Governing Council, Secretariat Headquarters and a voluntary Environmental Fund to pay for expenses, in the UN GA Resolution 2997 in 1972 the mandate



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included quite a few different aspects concerning the environment. One important UNEP assignment is to promote the cooperation between actors in the field of environment and it is therefore responsible for bringing the right scientific experts to the table. Those also help to manage one of the other tasks given to UNEP, namely to review the general environmental situation in the world in order to then help to come up with policies and guidelines according to these situations. If UNEP helped to establish an environmental programme, it also has the right to review the implementation and compliance of countries with these programmes. Of course it also has to work together with other UN agencies when need arises to do so. But most important for this thesis is the right to actively work on policies by giving opinions and provide expertise when it comes to environmental issues. Resolution 2997 says exactly in I 2a) *To promote international co-operation in the field of the environment and to recommend, as appropriate, policies to this end;* Next 2b) states: *to provide general policy guidelines for the direction and co-ordination of environmental programmes, within the United Nations system* (UN, 1972); 2a) shows that the UNEP is allowed to make policies but only to ensure co-operation in the field of environment but not exactly on environmental matters per se. 2b) allows for guidance on more general policy issues but does not state that the UNEP itself is allowed to come up with policies like regulations or even laws to cope with environmental issues. All in all it seems that in the beginning UNEPs right of policy making was quite limited. Especially because of the word “appropriate” in 2a), UNEP did not have a right to make policies in this specific field of environmental cooperation either.

Changes to UNEPs mandate were then made in the Agenda 21 in 1992, especially in chapter 38.22 (h). This section states:

*Further development of international environmental law, in particular conventions and guidelines, promotion of its implementation, and coordinating functions arising from an increasing number of international legal agreements, inter alia, the functioning of the secretariats of the Conventions, taking into account the need for the most efficient use of resources, including possible co-location of secretariats established in the future.*

(UN, 1992)

As can be seen UNEPs mandate was broadened quite significantly because now it is allowed to step into the realm of international environmental law making. Some more or less

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fundamental changes were made after the Agenda 21 for example in the Nairobi Declaration on the Role and Mandate of UNEP in 1997, or during the UN Millennium Declaration. The last changes were made in 2002 during the World Summit on Sustainable Development.

UNEP picks up these changes on its website but mainly bases its tasks on resolution 2997 and leaves out the right of policy implementation given to it under Agenda 21. In a nutshell UNEP understand its own mandate as stated on its homepage to

*“be the leading global environmental authority and in that role to set the global environmental agenda, to promote the coherent implementation of the environmental dimension of sustainable development within the United Nations system and to serve as an authoritative advocate for the global environment (UNEP)”.*

Here as well policy making is not explicitly mentioned. An official pamphlet issued by UNEP has one of the tasks administered by UNEP *“Developing international agreements and national environmental instruments (UNEP, 2006a).”* Another pamphlet about UNEPs Organization Profile names the following responsibilities: *“promoting international cooperation in the field of the environment and recommending appropriate policies (UNEP, 2006c).”*

A few pages later in the same pamphlet it says that UNEPs work includes: *“developing international and national environmental agreements and legal instrument (UNEP, 2006c).”* The official mission on the UNEP website is *“to provide leadership and encourage partnership in caring for the environment by inspiring, informing, and enabling nations and peoples to improve their quality of life without compromising that of future generations (UNEP).”*

The last informal UNEP objectives show no explicit mandate for policy e.g. regulation making. Overall it seems that especially the UNEP itself focuses mainly on cooperation in the field of environmental issues. The official mandate set out in UN GA Resolution 2997 on the other hand allows for the work on policy guidelines.

### **5.1.2 London Guidelines**

It has to be kept in mind that the London Guidelines are from 1987 amended in 1989 and therefore the latest changes of UNEPs mandate have no effect on this specific case. Only a glimpse at the original mandate from the UN GA Resolution 2997 is of importance. The London Guidelines were made as being complementary to the UN and WHO instruments and the FAO Code of Conduct in this matter and importantly contain the explanation of the PIC Procedure. Even if this procedure is voluntary it was meant to significantly help in the trade of potentially hazardous chemicals. Therefore this regulation can be regarded as helping with co-operation between nations especially on the trade of chemicals. Therefore it is in line

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with Resolution 2997 I 2) a). Section 2) b) can also be found in this guidelines as they are complementary to regulations made by other UN institutions and the UN itself. So even if the London Guidelines were made before the changes in UNEPs mandate took place and enriched its right in international environmental law making it still acted within its mandate.

## 5.1.3 MEA Guidelines

With the MEA Guidelines being from 2002 more recent changes in the mandate than with the London Guidelines have effect. The content of this Guidelines seem to be mostly about the better work of organizations and stakeholders concerning MEAs therefore UNEPs self proclaimed goal and mandate to help with cooperation and better working condition in the environmental field is met. *“UNEP has been mandated by its Governing Council to address these common features as a way of strengthening and facilitating effective implementation of Multilateral Environmental Agreements (MEAs) (UNEP)”*

The Nairobi Declaration from 1997 which also refers to UN GA Resolution 2997 and Agenda 21 clarifies that one important part of the UNEPs mandate is to: *“advance the implementation of agreed international norms and policies, to monitor and foster compliance with environmental principals and agreements and stimulate cooperative action to respond to emerging environmental challenges (UNEP, 1997).* Like with the London Guidelines the UNEP acted within its mandate when it adopted the MEA Guidelines.

The sub-question ‘Does the UNEP operates within its mandate?’ can be answered positively. With an outlook to the future it is more likely that more rights will be given to the UNEP than that some will be taken away. The making of UNEO could of course have some changes of the current mandate but it is unlikely that the mandate will be drastically diminished.

## 5.2 Transparency

### 5.2.1 General

Now the second sub-question ‘How transparent are regulations made by the UNEP?’ will be answered. In order to do this the UNEPs official web page is of vital importance. The

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UNEP maintains a homepage with vast information on its work. The problem is that for every subsection a new page with a slightly different layout opens which makes it difficult for an interested person to directly find the information needed. The link 'Publication' opens a page which contains the annual reports, e-book or atlases. Official documents about regulations, agreements, especially Multilateral Environmental Agreements, are not available. Not even links to these documents are provided. The website of UNEPs Division of Environmental Law and Conventions holds under 'publications' some more technical documents also about MEAs, but they are more about how these can come into being than the content of specific MEAs. This does not mean however that we can find explicit documents about UNEPs influence in making MEAs but how stakeholders can take part in proceedings leading to MEAs.

Information on soft law is even scarcer especially when it comes to older regulations. It has to be criticized that for example the chronological list of environmental agreements ends with the Protocol on Strategic Environmental Assessment (SEA) of 2003. Furthermore the annual reports on the UNEP website are only available from 1999 until 2006. An official list of non-legally binding agreements ranges from 1978 until 2002 and many of the provided links to these agreements do not work and open only an error page. Annual Reports on UNEPs work and projects can be found on the publication side. Sadly no reports of the earlier years exist. They start only in 1998 and for some reason no report for 1999 exists. The latest report is the one for 2009. Even scholars note that especially the soft-law agreements made by UNEP are not represented on its website (Mee, 2005). It seems that only a handful of documents are even put on the website and out of those again only a handful is linked to its texts. Ivanova says that the *'public cannot use UNEP's publications and benefit from the organization's work to the fullest extent due to the lack of a single easily accessible, searchable, and sortable database or catalog of publications (Ivanova, 2005)'* and that *'existing databases, such as GRID, WCMC, and UNEP.org, are rife with data holes and inconsistencies (Ivanova, 2005)'*.

Especially if an interested citizen who does not have the time to search the UNEP website can get frustrated very easily and nearly pressured into giving up without finding the information wanted.

UNEP maintains a quarterly magazine called 'Our Planet' which is mostly about the current

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environmental situation. In order to get information about UNEP itself and what it is doing as an organization the annual reports are good starting points. Even if this information only takes up around 1/5 of the whole magazine (UNEP, 2010a), it is a start. Especially for people who are not very familiar with UNEP at all.

### 5.2.2 London Guidelines

When entering 'London Guidelines' into the search engine on the UNEP website one gets 28 documents as a result. None of those is the full text of the London Guidelines. This might have its reason in its age. The oldest document found in this search engine is from 2006. Only a by hand search will find the document in the Environmental Law Branch which is a sub link from the DELC site. Here it is under 'Environmental Law Instruments' and under 'non-legally binding instruments' (UNEP). Confusing is that the web address of these documents does point to the chemical branch website which should have this document logically but cannot be found on that page by hand. Information on how these regulations were made is even harder to find. On one page it says that

*'The growth in world trade in chemicals during the 1960's and 1970's has led to increasing concerns about the risks of using hazardous chemicals. These concerns led to the adoption of the London Guidelines for the Exchange of Information on Chemicals in International Trade in 1987 by the UNEP Governing Council(UNEP)'.*

But this only explains why and not how the London Guidelines came into being. In order to answer this question we will now have a look at the very first Montevideo Programme adopted in 1982. As was stated above the Montevideo programmes are '*long-term, strategic guidance (UNEP)*' plans, covering the aspect of environmental law. Concerning the international trade in potentially harmful chemicals, Montevideo I states as its objective:

*To control international trade in hazardous or inadequately tested chemicals, particularly where the sale of such substances has already been banned or restricted in the producing country (UNEP, 1982). The strategy to achieve this is: preparation of guidelines at the global level as a first step towards a global convention; development and implementation of internationally harmonized practices, in particular for the gathering and dissemination of information (UNEP, 1982).*

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Several possible strategies to analyze existing rules in this field on both national and international level or to enhance the cooperation between international organizations which have an interest in this subject and national governments concerned are named in this document among other things,. As a possible first step for the trade of potentially harmful chemicals Montevideo I says that:

*UNEP should consider convening an intergovernmental meeting of experts for the development of principles or guidelines on the exchange of information in relation to the trade in potentially harmful chemicals, drawing upon, inter alia<sup>1</sup>, the results of the discussions on this subject, in the General Assembly (UNEP, 1982).*

The problem is that no information on such a meeting can be found. The newsletter of the chemicals branch of UNEP which holds information on expert meetings only dates back until 1997 (UNEP), therefore this cannot be used as an information device.

All in all information about how the London Guidelines were made or even the official text of these Guidelines are difficult to find. Especially a person who is curious but does not have the time for a difficult and long search will be disappointed with the transparency of the UNEP.

### 5.2.3 MEA Guidelines

In contrast to the London Guidelines a search on the official UNEP website does find the official document of the MEA Guidelines. Furthermore at least one document concerning the process of making these Guidelines can be found. This would be the “*Report of the Governing Council on the work of its twenty-first session* (UNEP, 2001b)” from February 2001 which asks for further work on the guidelines about the compliance with Multilateral Environmental Agreements. At the beginning of the Guidelines it is said that “*draft guidelines were prepared for submission to the UNEP Governing Council special session for review and adoption* (UNEP, 2002)” but these draft guidelines are not examinable. Otherwise they could have shed light upon the different inputs to these Guidelines and perhaps even who made these drafts. One document that gives an overview over why and how these Guidelines were made is “UNEP Governing Council Adopts Guidelines on Compliance with and Enforcement of

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<sup>1</sup> Accentuation in original document

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Multilateral Environmental Agreements” by Donald Kaniaru (Kaniaru, 2002). A problem with this document is that Kaniaru was the director of the UNEP DEPI but the document itself cannot be found on the official website but through a normal web search, so it is not definite if this information can really be counted towards the UNEPs transparency. 2 years prior to the Guidelines being adopted, the first Global Civil Society Forum already called “*upon the international Community to support the strengthening of the capacity of developing countries to implement multilateral environmental agreements and other relevant instruments (N. Community, 2000)*”. Even if this demand focuses on developing countries and only in the implementation and not the compliance or enforcement of MEAs does it still show a first interest in this topic. One statement from the third meeting from February 2002 talks about the lacking enforcement of MEAs but does not mention the Guidelines currently established (C. S. Community, 2002).

Newer information is even better accessible, for example the Manual about the MEA Guidelines, in pdf, to help third parties to work and understand the Guidelines or the Online Manual which holds more information about the Guidelines and which makes it easier for readers only interested in a specific part of the Manual because it is not as linear as a pdf document (UNEP, 2006b). Both are from 2006 and are supposed to complement the MEA Guidelines by giving examples or introducing case studies. Furthermore links to two High-Level Meetings concerned with these Manual shortly before it was adopted can be found. A closer look at this High Meetings will be given in the public participation chapter. One problem is that for the two High-level meetings only an agreed chairmen’s summary is available. It is therefore irreproducible which opinions the different actors involved had on the issue. Furthermore in contrast to the original guidelines, a draft for the manual can be found online. It is from 2004 (UNEP, 2004). This shows that newer information is better available than older ones like the London Guidelines but the transparency is still far from being perfect. It is also notable that the link from the Online Manual site to the real Guidelines does not work. It is not clear if this is only a temporary problem but keeping in mind that the list of non-legally binding UNEP decision also has no link for these specific Guidelines indicate that again the UNEP website does not work as efficient as it should. The links on the High Level

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Meeting page on the other hand work (UNEP, 2005a).

Answering the sub-question “How transparent are regulations made by the UNEP?” it has to be said that transparency improved over time. With the London Guidelines not being very transparent, it did reform until the MEA Guidelines. With the look on the complementary Manual it seems that transparency improved even further after 2002. Also the documents available are relatively easy to understand. The official Guideline text needs some time to get used to for untrained readers, but especially the Manual on the MEA Guidelines is very readable. Nevertheless work still has to be done, especially concerning the non-working links on and the overall accessibility of the website.

### 5.3 Public Participation

#### 5.3.1 General

The last sub-question to be answered is “Does the UNEP allow for public participation?” The UNEP states on its homepage that especially civil society is an important ally. It holds seminars and meetings with experts to incorporate their opinions, but sadly the data base with these meetings only dates back until 2006 and thus it cannot be said if this form of public participation was practised right from the beginning or when exactly UNEP started it. The important role of public participation was also recognized in the Agenda 21. Here in chapter 23 it is said that especially

*“in the more specific context of environment and development, the need for new forms of participation has emerged. This includes the need of individuals, groups and organizations to participate in environmental impact assessment procedures and to know about and participate in decisions, particularly those which potentially affect the communities in which they live and work (UN, 1992).”*

In 1992 during the United Nations Conference on Environment and Development (UNCED) also known as ‘Earth Summit’ it was decided that the following groups are considered one of the Major Groups mentioned in the Agenda 21: Farmers, Women, the scientific and technological community, Children and Youth, Indigenous people and their communities, Workers and trade unions, Business and industry, Non-Governmental Organizations (NGO)



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and Local authorities (UNEP). 12 years later the UNEP created the Major Groups and Stakeholder Branch to ensure even better public participation. In 2000 the first Global Civil Society Forum (GCSF) was held in Malmo, Sweden in order to “*provide a platform for exchange and consultation on key environmental issues (UNEP, 2010b)*”. This forum was then held every year and renamed into Global Major Groups and Stakeholder Forum (GMGSF) in 2010 in order to incorporate all stakeholders. At the end of these forums all Major Groups issue a statement paper with the aspects they found most important. All these papers can be accessed on the civil society page of the UNEP homepage. 1999 saw the incorporation of a newly established Civil Society and NGOs Unit in the Policy Branch of the UNEPs Division of Policy Development and Law. Four years later a strategy paper on the enhancing civil society engagement in the work of the UNEP was presented. These examples show that public participation is regarded as being very important by the UNEP for quite some time. But keeping in mind that for example the GCSF only started in 2000 and that the UNEP was established in 1972; it took some time in to achieve the amount of public participation we can see now.

Furthermore it still has to be seen how far these participations had influence on specific policy making of the UNEP. The limited number of reports presented by major groups (UNEP) should make it easier to see if their opinion and participation did play a role but on the other hand does such a short number seem to point out that the participation itself is quite restricted. Meeting with stakeholder groups were not only done on an international but also on a regional level. For example Regional Consultative meetings are being held since 2005 (UNEP).

### **5.3.2 London Guidelines**

The first Montevideo Programme did call for an expert meeting before dealing with regulations on the international trade of chemicals but as was already seen in the transparency part, information if such a meeting took place or not cannot be found. Therefore it cannot be said if and how expert opinions were integrated into the London Guidelines. Accordingly no information on the participation of other groups could be found. When looking at public participation through surveys as possible indicators, it is notable that no survey solely on the performance of the UNEP exists. And other more general surveys about the environment or at least about chemicals do not date back as far as needed to be of

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significance for the making of the London Guidelines. Therefore this indicator also presents a lack of democratic legitimacy for the UNEP when creating the London Guidelines in 1987 or amending those in 1989. As can be seen above the UNEP stresses the importance of public participation but forums for this were made after the adoption of the London Guidelines and information on older ones is nonexistent. So using the example of the London Guidelines which were negotiated 1987, public participation did not play a role and therefore this specific agreement is not legitimate when it comes to public participation.

### 5.3.3 MEA Guidelines

With so little information about how the MEA Guidelines came into being it is difficult to say who was involved. Kaniaru speaks in his text about ‘experts’ but does not clarify who these experts were, where they came from and how they were chosen. This is mainly a problem of transparency but it can also be an indicator of not very open public participation. Also the government who could give recommendations about the draft Guidelines are not specified.

Two possibilities where people could show their opinion about these draft were through “*geopolitically balanced advisory group meetings (Kaniaru, 2002)*” in 2000 in Nairobi and a year later in Geneva. Besides mentioning that also MEA secretariats and 78 governments were present at these meetings, no further information about participants is given. But with the obvious emphasis on the participation and work of experts it is doubtful that ‘normal’ citizens took part in these meetings. A workshop from 2003 with the goal to examine the Guidelines and to work on the Manual adopted in 2006 contained, according to a press release found on the UNEP website, “*50 governmental officials from 18 countries as well as experts from convention secretariats, universities and other civil institutions (UNEP, 2003)*”. Which countries, convention, university or institution those are is not specified. This shows the connection between transparency and public participation. One paper from the First GCSF from 2000 has the implementation of MEAs as one point of discussion (see transparency part) but sadly this is only the view of the NGOs. The opinions of other groups are not available. Also, it is not clear which NGOs were part of this statement

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paper.

The paper issued after the second Global Civil Society Forum one year later already includes “*other civil society organizations (N. a. C. S. Community, 2001)*”, but again no specification can be found.

The other statements do not deal with MEAs but with the involvement of civil society in the work of the UNEP in general. In short civil societies want more involvement. Important is that in the ‘Civil Society Statement on Engagement with UNEP’ from the third GCSF ‘civil society’ is defined for the first time, namely to incorporate “*all the nine Major Groups as defined by Chapter 28 of Agenda 21 (C. S. Community, 2003)*”. Surveys can be found on specific MEAs but not about the MEA Guidelines in particular.

Again we can see a slight change in public participation from the London to the MEA Guidelines. Still with the missing information about the specific NGOs or civil societies no clear answer about public participation can be given. In other words, the sub-question “Does the UNEP allow for public participation?” would have to be answered ‘it seems that way’ but the missing information has to be given in order to give a better and hopefully positive answer.

## 6 Conclusion

The environmental awareness grows and with it the wish for better regulations and laws to protect the environment especially on the international level. The United Nations Environmental Programme tries to respond to these demands to the best of its abilities. In order to strengthen these abilities, the possibility to change the UNEP to a real Environmental Organization is being discussed by scholars. But this change, or any other form of giving the UNEP more power, automatically raises the question of the legitimacy of this International Organization. Therefore this thesis tried to answer the following research question: “Are rules and regulations made by the United Nations Environmental Programme legitimate?” In order to do this a concept of legitimacy, containing the mandate, transparency and possible public participation of the process of law making by the United Nations Environmental Programme was constructed and then applied to two specific regulations. These two differed in age and content. The first was wanted in order to show a possible change of legitimacy over time. This

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allowed for a better prediction for the future.

The analysis of the three factors of legitimacy from the London to the MEA Guidelines and, to some extent, even further shows that legitimacy did improve over time.

The mandate was no issue in both cases but the democratic legitimacy of the London Guidelines was nearly non-existent. The MEA Guidelines performed better but still have room for improvement.

If this positive development continues, the UNEP has chances to become fully legitimate according to the used definition of legitimacy, in the future. This of course depends on several outside factors as well, but the analysis showed a trend into the right direction.

Concerning a possible UN Environmental Organization it has to be said that most parts can be adopted from the UNEP especially if some points are being taken care of. The mandate should not be trimmed and transparency and public participation should be enhanced as far as feasible. One possibility to do this would already be to improve the official website.

One weakness of this study is of course the limitation of only two regulations being analyzed. Especially the fact that those two deal with different contents could have a negative influence on the generalisability of the findings. Nevertheless the general overview before each of the three factors tried to keep this flaw checked to the greatest possible extend.

All in all it can be concluded that the law making power of, and therefore the regulations made by the UNEP are not fully legitimate right now but that this improved over time and therefore has chances to become even more legitimate in the future if the UNEP continues to strengthen its transparency and public participation facilities.

## 7 Bibliography

Alvarez, J. E. (2005). *International Organizations as Law-Makers*. Oxford: Oxford University Press.

Bernstein, S. (2004). Legitimacy in Global Environmental Governance. *Journal of International Law & International Relations*, 1(1 - 2), 139 - 166.

# Legitimacy of the UNEPs Law Making

---

- Bodansky, D. (1999). The Legitimacy of International Governance: A Coming Challenge for International Environmental Law? *The American Journal of International Law*, 93(3), 596 - 624.
- Buchanan, A. E. (2004). *Justice, Legitimacy and Self-Determination. Moral Foundation for International Law*. New York: Oxford University Press Inc.
- Communities, E. (2008). European Commission and United Nations Environment Programme working together for the Environment. In E. Commission (Ed.) (pp. 20). Luxembourg: Office for Official Publication of the European Communities.
- Community, C. S. (2002). *Civil Society Statement on International Environmental Governance*. Cartagena.
- Community, C. S. (2003). *Civil Society Statement on Engagement with UNEP*. Cartagena.
- Community, N. (2000). *Statement on Behalf of Malmö NGO Forum Global Environmental Ministerial Forum*. Malmö.
- Community, N. a. C. S. (2001). *Statement on Behalf of NGOs and other Civil Society Organizations; Global Ministerial Environmental Forum*. Nairobi.
- Eurobarometer. (2008). *Attitudes of European Citizens towards the environment*
- Ivanova, M. (2005). *Can the Anchor Hold? Rethinking the United Nations Environment Programme for the 21st Century*. New Haven: Yale School of Forestry & Environmental Studies.
- Kaniaru, D. (2002). *UNEP Governing Council adopts Guidelines on Compliance with and Enforcement of Multilateral Environmental Agreements*. Unpublished manuscript, Nairobi.
- Kumm, M. (2004). The Legitimacy of International Law: A Constitutionalist Framework of Analysis. *The European Journal of International Law* 15(5), 907 - 931.
- Mee, L. D. (2005). The Role of UNEP and UNDP in Multilateral Environmental Agreements *International Environmental Agreements: Politics, Law and Economics*, 5(3), 227 - 263.
- Sands, P. (2003). 1987 UNEP London Guidelines *Principles of international environmental law* (pp. 633 - 635). Cambridge: Cambridge University Press.
- Scharpf, F. (1999). *Governing in Europe: Effective and Democratic?* Oxford: Oxford University Press.
- UN. (1972). *Institutional and Financial Arrangements for International Environmental Cooperation* Retrieved from <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/270/27/IMG/NR027027.pdf?OpenElement>
- UN. (1992). *Agenda 21*. Retrieved from [http://www.un.org/esa/dsd/agenda21/res\\_agenda21\\_38.shtml?utm\\_source=OldRedirect&utm\\_medium=redirect&utm\\_content=dsd&utm\\_campaign=OldRedirect](http://www.un.org/esa/dsd/agenda21/res_agenda21_38.shtml?utm_source=OldRedirect&utm_medium=redirect&utm_content=dsd&utm_campaign=OldRedirect)

# Legitimacy of the UNEPs Law Making

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- UNEP. About UNEP: The Organization Retrieved 18.08, 2010, from <http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=43>
- UNEP. Chemicals Newsletter. Retrieved 13.08, 2010, from <http://www.chem.unep.ch/newslet.htm>
- UNEP. The Colombo Process - Beyond Compliance with and Enforcement of MEAs. from [http://www.unep.org/dec/Support/Cross\\_Cutting/Compliance\\_Enforcement.asp](http://www.unep.org/dec/Support/Cross_Cutting/Compliance_Enforcement.asp)
- UNEP. Development of Montevideo Programme IV. *About the Programme* Retrieved 18.08, 2010, from [http://www.unep.org/law/About\\_prog/montevideo\\_progIV.asp](http://www.unep.org/law/About_prog/montevideo_progIV.asp)
- UNEP. The London Guidelines, including Prior Informed Consent. Retrieved 11.08, 2010, from <http://www.chem.unep.ch/irptc/irptc/lguide.html>
- UNEP. Major Groups and Stakeholders. *Major Groups* Retrieved 15.08, 2010, from <http://www.unep.org/civil-society/MajorGroups/tabid/2749/language/en-US/Default.aspx>
- UNEP. Montevideo Programme *About the Programme* Retrieved 11.08, 2010, from [http://www.unep.org/law/About\\_prog/montevideo\\_prog.asp](http://www.unep.org/law/About_prog/montevideo_prog.asp)
- UNEP. Non-binding Agreements *Development of International Environmental Law* Retrieved 11.08, 2010, from [http://www.unep.org/Law/Programme\\_work/Dev\\_international\\_law/devt\\_non-binding.asp](http://www.unep.org/Law/Programme_work/Dev_international_law/devt_non-binding.asp)
- UNEP. Non-legally Binding Instruments *Environmental Law Instruments* Retrieved 11.08, 2010, from [http://www.unep.org/Law/Law\\_instruments/law\\_instruments\\_non\\_bid.asp](http://www.unep.org/Law/Law_instruments/law_instruments_non_bid.asp)
- UNEP. Past Regional Consultative Meetings *Global Civil Society Forum* Retrieved 16.08, 2010, from [http://www.unep.org/civil\\_society/GCSF/indexpastRCMs.asp](http://www.unep.org/civil_society/GCSF/indexpastRCMs.asp)
- UNEP. Policy. *Environmental Governance* Retrieved 18.08, 2010, from <http://www.unep.org/environmentalgovernance/Policy/tabid/345/language/en-US/Default.aspx>
- UNEP. Position Paper. Retrieved 15.08, 2010, from <http://www.unep.org/civil-society/PositionPapers/tabid/2750/language/en-US/Default.aspx>
- UNEP. (1982). *Programme for the Development and Periodic Review of Environmental Law*.
- UNEP. (1997). *Nairobi Declaration*. Retrieved from <http://www.nyo.unep.org/pdfs/nd.pdf>.
- UNEP. (2001a). *The Programme for the Development and Periodic Review of Environmental Law*.
- UNEP. (2001b). *Report of the Governing Council on the Work of its Twenty-First Session* Retrieved from <http://www.unep.org/gc/gc21/Documents/K0100275-E-GC21.doc>.

## Legitimacy of the UNEPs Law Making

---

- UNEP. (2002). *Guidelines on Compliance with and Enforcement of Multilateral Environmental Agreements*. Retrieved from <http://www.unep.org/DEC/docs/UNEP.Guidelines.on.Compliance.MEA.pdf>
- UNEP. (2003). *Sri Lanka workshop aims to strengthen environmental accords in region*. Bangkok.
- UNEP. (2004). *Draft Manual on Compliance with and Enforcement of Multilateral Environmental Agreements* Retrieved from <http://www.unep.org/depi/programmes/meas-draft-manual-nov24-fullversion.pdf>.
- UNEP. (2005a). *Envisioning the Next Steps for MEA Compliance and Enforcement*. from [http://www.unep.org/dec/support/mdg\\_meeting\\_col.htm](http://www.unep.org/dec/support/mdg_meeting_col.htm)
- UNEP. (2005b). *Implementation of the Montevideo Programme III for the period 2000-2005*.
- UNEP. (2006a). *Environment for Development*. In UNEP (Ed.). Nairobi: UNEP.
- UNEP. (2006b). *Online Manual on Compliance with and Enforcement of Multilateral Environmental Agreements*. from <http://www.unep.org/dec/onlinemanual/>
- UNEP. (2006c). *Organization Profile*. In UNEP (Ed.). Nairobi: UNEP.
- UNEP. (2010a). *2009 Seizing the Green Opportunity*.
- UNEP. (2010b). *Eleventh Global Major Groups and Stakeholders Forum (GMGSF - 11)*. Retrieved 27.07.2010, from <http://www.unep.org/civil-society/GlobalMajorGroupsStakeholdersForum/GMGSF11/tabid/2910/language/en-US/Default.aspx>