

Common position of the Non Governmental Organizations on a Global Environmental Organization

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Preamble

The French Government has just initiated an intergovernmental dialogue to set up a landmark institution in the field of global environmental protection. The Non governmental organizations (NGOs) signing this paper wish to present their position to the intergovernmental working group.

In order to work towards a more democratic and legitimate institution, we wish to take part in the dialogue and request regular information on the progress of the debate. This will enable us, with your agreement, to present further observations during the intergovernmental process.

Common position

Peace and war are supposed to fall under the mandate of the United Nations. International trade is placed under the authority of the World Trade Organization. But what about the biosphere, condition of all human activity? While it is being damaged at high speed, no organization exists which is solely dedicated to the protection of the global environment and the monitoring of the effects of human activities on the biosphere. Admittedly, there is the United Nations Environment Program (UNEP) created in 1972 following the first UN conference on the environment in Stockholm, Sweden ; but its resources and visibility are insufficient with regard to the vastness of the task. As for the hundreds of environmental multilateral agreements (EMA), they have even less influence than the UNEP and suffer from weak organization and little coordination between structures. All things considered, the current

system for global environmental governance is ineffective and fragmented, lacking an overall vision and authority. The lack of strong international institutions safe-guarding the welfare of the environment has contributed to the current global ecological crisis.

Additionally, as the international institutional architecture gives excessive emphasis to notions of free trade and economic growth, environmental issues are often considered of secondary importance. The poor results of the second Earth Summit in Johannesburg confirm it, as it upgraded the WTO as the main vector for sustainable development. In fact, the WTO simply regards the environment as a bundle of quantitative goods (water, energy resources, genetic and biological heritage) and fails to address the complexities inherent in environmental management and protection. Without a credible institutional interlocutor speaking for the environment, this simplistic view will continue to fail in addressing the problem of environment degradation.

In order to counter this approach, it is necessary to create an institution that will allow the United Nations, orphan of a specialized agency dedicated to the environment, to display its new major priority : curbing the degradation of the global environment. **The creation of a Global Environment Organization (GEO), if possible based on a reform of the existing UNEP, is the necessary institutional translation of this shift.**

In addition to the strong symbolism and dynamics brought about by this important institutional innovation, the GEO would convey the coherence (1) and authority (2) that are lacking in the present scheme for implementing ambitious and effective policies for global environmental protection. The whole reform must be carried within a more democratic institutional framework (3).

I. Coherence

In order to make the GEO the reference institution, it is necessary to put an end to the scattering of environmental competencies. Consolidation and coordination are two degrees of interaction within the existing entities that can support a more coherent and effective policy at the global level.

• Consolidation

In our vision, the ambit of the GEO lies on what is needed for implementing and enforcing the environmental multilateral agreements with global range. There are about fifteen of them, which secretariats can be integrated into the GEO and clustered in families : atmosphere, water, soil and biodiversity, waste and polluting material. One can add to them a section dedicated to the environmental accountability of private corporations.

The institutions and programs directly concerned with the management and the protection of global public goods in the environmental field must also be consolidated within the GEO (including the Global Environment Facility and some elements of the International Maritime Organization and the UNESCO).

• Coordination

The consolidation of competencies goes hand in hand with the integration of environmental concern within other international institutions including the Commission on Sustainable Development, the United Nations Program for Development, the Food and Agriculture Organization, the World Health Organization, the World Meteorological Organization, the World Trade Organization, the World Bank and the International Monetary Funds, etc.

With the WTO, the emphasis must be put on the coherence between environmental regulations and trade regulations. Upstream, the respective agreements must avoid contradiction. Downstream, a protocol must resolve the conflicts to come, to ensure trade activities are not harmful the environment.

- **Active subsidiarity**

The mandate of the GEO is to monitor activities causing environmental damage at the global level. Its mission will be relayed on each continent by decentralized offices, while the headquarters will remain in Nairobi, Kenya. As for local issues, the principle of active subsidiarity calls global and local actors to cooperate, each one according to their own means in the particular circumstances. Within this framework, the GEO could promote better co-operation between States, between local authorities or between civil society actors (eg : the Cotonou agreement, signed between the EU and ACP States in 2000 promotes the cooperation of non-State actors).

2. Authority

Lack of authority is a significant obstacle under the current governance system, unable to incarnate and lead a political stance collectively elaborated. As a first step, the UN should include global environmental protection as a goal in its Charter. More important, it should establish the Global Environment Organization (or “United Nations Environmental Organization”, as the French government names the project) as a **specialized UN agency, with an independent budget**. This agency would have a reinforced mandate ensuring better implementation of environmental international law and an appreciably increased budget.

- **A widened mandate**

Whereas the UNEP is primarily confined to a mission of coordination between the existing institutions, **the GEO would be the political forum for the determination and implementation of a world strategy for environmental protection**. Being the focal point for citizens and NGOs on environmental issues, it would convene every year a thematic Summit of the Earth (on atmosphere, biodiversity, water, etc.) ; it would organize a close dialogue with partner institutions and have the power to address recommendations to them, including to the WTO ; it would be the reference body for scientific, technical and legal expertise on the environment ; it would contribute to clean technology-transfer and capacity building for the South ; it would have an operational mission for implementing the EMAs with global range ; it would reinforce environmental international law by adopting the missing pieces (for example, a treaty on environmental accountability of private corporations, on reasonable exploitation of energy resources, on polluting material maritime transport) and above all by taking the necessary steps to improve its enforcement.

- **A better enforcement of international environmental law**

With nearly 500 EMAs, including fifteen with global range, international environmental law has the credit of existing. But it remains poorly enforced because it has no adequate tools. **The efforts to create the GEO must rely on the need for better enforcement of the existing corpus**. First, by means of prevention, thanks to the simplification and harmonization of observance mechanisms (annual reports of member States) and through evaluation tools, on the basis of the clusterings ; second, by means of a dispute resolution mechanism : like the WTO, the GEO should contain a quasi-judicial body designed to settle disagreements between States. However, the limits of the arbitration system -misfit to the damages caused by a State on its own territory- lead us to prefer, in the

medium term, the setting up of an **International court for the environment**, endowed with a college of prosecutors in charge of preparing cases for judgment following complaints for violation of an EMA with global range. This Court could be seized by the States and by approved NGOs. The penalties imposed would not necessarily be pecuniary, especially for the countries of the South with little means. The States would be obliged to repair ecological damages ; their voting rights to the UN would be suspended ; if necessary, the penalty would be accompanied by an adequate financial or technological support.

- **An increased budget**

Our ambitions with the GEO need an adequate budget, much higher than that of the UNEP (average of \$100 million/year, which amounts to the budget of large American NGO). The statute of specialized agency means an independent budget and a compulsory annual contribution from member States.

The Global Environment Facility should be exclusively attached to the GEO. New resources could consist of a **global eco-tax** or part of a Tobin tax. The private sector and individuals could make donations.

3. A democratic institution

Designing a democratic international institution is uneasy but it is not out of reach. The institutions of Bretton Woods are challenged because of their great lack of transparency. **Global governance issues should no longer be the exclusive business of sole States.** The voices of citizen, local authorities, NGOs and economic actors of the South must also be heard when enacting environmental policies. Democracy must first come from member states, with greater equity with the South. But it also needs the participation of the public at large.

- **For more equity between the North and the South**

The countries of the South are too often marginalized during international negotiations. The recent failure of the WTO conference in Cancún is a landmark and opens new perspectives that ought to be constructive.

When global environment is at stake, it is first necessary to recognize the existence of an **ecological debt** owed by the North to the South. The exploitation on a large scale of the natural resources of the South, the biopiracy and the export of waste are wrongfully evaded in assessing the economic debt of the South. The reduction or mere cancellation of this debt, after evaluation of the ecological damages suffered by the South must be considered before assessing each party's responsibilities in the global ecological crisis.

Because they are the first victims of ecological predation, the countries of the South have a great interest in protecting the environment with a strong institution. Fears of "green protectionism" restraining market access in the North can be overcome with an adequate clean technology transfer and with an equitable technical and financial support from the North.

As to their participation in international negotiations, **it is important that the countries of the South organize themselves to make their voice heard when drafting the agenda.** The agenda of negotiations is too heavy while the delegations of the South need more members and better

training to weigh in negotiations. With this regard, the role of the GEO is to facilitate the active participation of the South.

- **For an active participation of the citizen**

An international institution, as powerful as it is, cannot replace an environmentally sound behaviour from the citizen, in particular when it has to do with the modes of consumption. **That is why the GEO must implicate each citizen and increase public awareness.** To disseminate information and fertilize the debates are one of its essential tasks. The participative tools are known : citizens conferences and the recognition of a right to petition, supported by vast campaigns of information and environmental education. The GEO will have to adapt these tools and use them at a global scale.

- **For a plural global environmental governance**

In close coordination with the components of the United Nations and the institutions of Bretton Woods, the GEO will have the task of leading the international policy on environment, watching over its coherence, its priorities, its agenda and arbitrations. **This mission is possible and legitimate only if the bodies of the GEO reflect the diversity of actors concerned with global environmental governance.** Thus, next to the States, it is necessary to integrate in the organs of the GEO representatives of the public -including NGOs, trade unions, local authorities, etc.- and experts whose competencies are internationally recognized. This **tripartite composition**, inspired from the International Labour Organization, showed that it was a factor for constructive dialogue.

Conclusion

To build such a Global Environmental Organization requires a great collective political good-will. It also calls for a questioning of the dogma of " sustainable economic growth ", to be distinguished from " sustainable development ". Our governments have to understand the gravity of the current ecological crisis. The emergency and the ecological interdependence of the States oblige them to mobilize themselves today and build up effective institutional tools to guarantee a liveable planet, today and for the future generations.

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