

OTHER INTERNATIONAL DEVELOPMENTS

Viewpoint: Making Globality Environmentally Responsible

by Andrzej Jagusiewicz*

Globalization has reached all aspects of our lives. Wanted or unwanted, it has been moving people, capital, goods and services with unprecedented speed due to information technology, the communication revolutions, more free borders and steadily growing air traffic. Certainly, globalization creates jobs and stimulates economic growth. Unfortunately, it also generates pollution and wastes, causing harm to human health and damage to ecosystems and natural resources that are of major environmental and economic importance.

The environmental implications of globalization originate primarily from man-made activities, particularly in four key economic sectors *i.e.* energy, transport, industry and agriculture. Inherent in these human activities are pollution and wastes crossing national borders without passports and visas, so affecting the environment. A dozen such major environmental problems have been identified including global warming, stratospheric ozone depletion, acidification, increased tropospheric ozone formation, deforestation, loss of biodiversity, soil degradation *etc.*, whose range may be sub-continental, regional or global.

Managing transboundary air pollution and pollution in transboundary waters or restricting cross-border movements of chemicals and wastes has been a concern of governments and the subject of intensive international

cooperation for a number of years. Depending on their range, competent international institutions have designed legal agreements aimed at controlling and reducing different environmental pressures on air, water, land and flora and fauna

First, global environmental diplomacy, mainly under the auspices of the United Nations Environment Programme (UNEP) has yielded a series of international instruments addressing global environmental problems.

The most important are treaties dealing with ozone depletion (the Vienna Convention and its Montreal Protocol), greenhouse effect or climatic warming (the Framework Convention on Climate Change and its Kyoto Protocol) and transboundary movements of hazardous wastes (the Basel Convention). In general, these agreements include control measures with more or less binding regimes, and financial and technology transfer mechanisms to implement them effectively.

The inherent weakness of any global legal instrument is that the negotiators must agree on the lowest common denominator to satisfy all parties. Furthermore, financing by the richest to implement the basic obligations of the poorest has never been adequate to meet the needs – *i.e.* to set environmental targets. Often, sparse ratification and lack of adherence to the targets can only add to this weakness.

The second forum for designing international environmental instruments at continental rather than global level is the United Nations Economic and Social Council and its regional commissions: for Africa, Latin America,

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South-East Asia and the Pacific and Europe, which also includes Canada and the United States as member countries. The ECE region consumes almost 80 per cent of global natural resources. Not surprisingly, for a region generating as much pollution and waste as this the Economic Commission for Europe (ECE) has put in place a unique regional environmental legal framework addressing most important aspects and effects of transboundary pollution. Unfortunately, other regional commissions have been left far behind, although the same environmental problems persist within their economic spheres.

The ECE legal environmental framework consists of five treaties addressing licencing procedures for polluting activities with transboundary effects, transboundary air pollution, pollution of transboundary watercourses and international lakes, transboundary effects of industrial accidents and access to information. The latter, the so called Aarhus Convention, is designed to aid public participation in environmental decision-making and access to justice in environmental matters. It was signed recently and is not yet enforced (see also Environmental Policy and Law, Vol. 28 at page 171). These binding instruments are interrelated in a coherent and mutually supportive way, although preventive and control measures, even of a mandatory nature are not supported by any financial mechanisms, making exchange of technology almost impossible.

This is another, inherent weakness of the UN regional environmental agreements, where the disparities between tile member countries continue to widen, increasing the risks of division between different country groups *i.e.* the European Union, Central and Eastern Europe and newly independent States including the Russian Federation. Poor economic conditions among almost half of the ECE members as a result of superficial reforms, combined with the lack of necessary funding for implementing their environmental obligations, make it difficult to reach the treaty targets for the region as a whole.

If the globalization is irreversible then all environmental problems, so far divided into local, continental or global will become more and more global, and will need a global response to make responsible globality really environmentally-friendly. And the existing piecemeal legal frameworks and geographically inadequate institutional settings cannot respond adequately and effectively. Therefore, the role of the United Nation's system has to be redefined, the existing structure for environmental policy coordination and implementation revised, and the UN's environmental agenda expanded to meet the challenge of global reality.

To sum up, there is an urgent need to elaborate a broad consensus towards a new global environmental order, which will ensure a harmonized approach and standardised requirements to integrate environmental policies into the world economy and particularly into its main sectors energy, transport, industry and agriculture. In other words, a kind of environmental cap should be put on any economic activity stimulating on one hand "green competitiveness" while on the other not distort-

ing global or regional markets. A model example of this kind of activity is car manufacturing elsewhere in the world from France to Japan to Poland, where vehicles are equipped with the best available technology for controlling exhaust emissions which require most environmentally-friendly fuels.

The new global environmental order or new global legislative and regulative framework should have three tiers. Level one would consist of general treaties that set an overall framework for coping with major environmental problems, ensuring that available control options, including preventive measures and enforcement instruments are of recommendatory nature – *i.e.* economic incentives and financial mechanisms. Any government will be willing to join such agreements, which raise awareness and offer solutions. UNEP should be responsible for performing this task.

Level two would consist of regional agreements based on global treaties. They would specify regional implementation protocols concerning defined pollution sources, their impact on the main environmental media (water, air and soil) and ways of dealing with the main environmental hazards (air emissions, wastes and endangered species). They should also specify concrete environmental targets and related timescales, and set binding regimes, including financial ones to achieve them.

In addition, such regional protocols can identify least-cost solutions for a region as a whole and include international economic instruments for example, burden sharing or joint implementation, which are easier to design and apply among neighbours having a common interest. These regional agreements can be easily elaborated under the auspices of the UN regional economic and social commissions following the outstanding experience of ECE. Then, these commissions will become the regional agencies implementing, individually or jointly if needed, the global environmental agreements negotiated by UNEP.

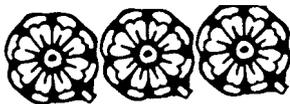
Fighting transboundary pollution and cross-border environmental crimes can not be solved by redefining UN global and regional responsibilities alone. Such a complex task must be vigorously enforced by national and local governments, industry and its professional associations, the scientific community and the public. And this would be the third tier. The role to be played by the public and various different non-governmental organizations (NGOs) remains the most potent tool for pushing forward the global environmental agenda and accomplishing its targets.

The Aarhus Convention says that all citizens have the right to access environmental information, participate in policy formulation and have access to legal redress if their needs are not met. But the full benefits of the European Agreement will only be realized when the rest of the international community also takes action.

Klaus Töpfer, Executive Director of UNEP, is already taking global action aimed at extending the ECE legal instruments, not only on public policy, but also on transboundary air pollution by toxic chemicals. The Economic and Social Commission for South-East Asia and

the Pacific is seriously considering adopting a similar approach to that of the ECE to control air pollution. For the past twenty years the ECE has used the Convention on Long-range Transboundary Air Pollution to control air pollution. The Convention has been recognized as a unique forum for successful advancement of international environmental law and for effective regional cooperation.

Implementing global and regional environmental agreements needs money, a lot of money. A healthy environment is not something we can buy at the supermarket. It is a benefit we can all create by taking matters of environmental protection into our own hands, and as shareholders in the world's nature we will have to pay for it. Therefore, mandatory environmental taxation of all of us seems necessary combined with successful financing schemes, for example, debt for nature swaps or voluntary contributions.



Taxes can be primarily imposed on fossil fuels (carbon tax) and extended to motor fuels (gasoline and diesel) and aviation fuel (kerosene). Despite the unwillingness of many governments and even competent international organizations dealing with maritime and air traffic, pressure for such taxes will grow, particularly from strong subregional organizations such as the Euro-

pean Union. Recently, the Norwegian government introduced a tax on kerosene, sparking off an instant rebellion by leading airlines. Within two days, the airlines had obliged the government to withdraw the tax. But the precedent has been set.

Collected taxes should be channeled to a Global Environmental Fund, and from there, redistributed to regional economic and social commissions for (the problems they are dealing with). Such funding could then be used to support the financial regimes designed under the implementation protocols.

A debt for nature swap is another successful way to finance environmental obligations, particularly in countries with economies in transition such as Poland or in developing countries such as Brazil. It involves converting a country's debts into an environmental fund for mitigative measures with the consent of the creditor. The creditor's main interest is to avoid at home the effects of transboundary pollution originating on the territory of the debtor. This depends primarily on the political will of donor countries.

Most of these proposals do not require amendments to the UN Charter or to the treaties establishing the UN regional commissions and specialized agencies. However, the mechanisms to generate funding for implementing global environmental instruments should be put on the agendas of the Group of Seven and the World Economic Forum. It is well known that unsolved environmental problems have the potential to undermine stability and security at regional and even at global level. Therefore, if globality is to avoid instability and insecurity, and if we are all willing to couple development with environmental responsibility, then the time for action has come. Let us make globality environmentally responsible. □