

(Re) Invigorating Environmental Multilateralism for Sustainability

Kariuki Muigua

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Kariuki Muigua*

Abstract

Achieving sustainability has become a clarion call in light of mounting challenges facing the planet including the triple planetary crisis of climate change, biodiversity loss, and pollution. Environmental multilateralism has been advanced as a key tool of addressing these among other challenges facing the planet towards achieving sustainability. This paper critically explores the role of environmental multilateralism in the sustainability debate. It argues that environmental multilateralism can play a key function in unlocking sustainability. It defines environmental multilateralism and discusses the progress made towards fostering this concept. It also examines challenges facing environmental multilateralism. The paper further proposes measures towards (re) invigorating environmental multilateralism for sustainability.

1.0 Introduction

Achieving sustainability has become a matter of urgent global priority in light of environmental challenges facing the planet¹. It has been pointed out that the world is facing mounting problems including environmental challenges such as climate change, together with issues of poverty, increasing disparity between societies and the tensions brought by social inequalities creating the need for sustainability². Further, according to the United Nations Environment Programme (UNEP), the world is facing a triple planetary crisis of climate change, biodiversity loss, and pollution which challenges have

* PhD in Law (Nrb), FCIArb (Chartered Arbitrator), OGW, LL. B (Hons) Nrb, LL.M (Environmental Law) Nrb; Dip. In Law (KSL); FCPS (K); Dip. in Arbitration (UK); MKIM; Mediator; Consultant: Lead expert EIA/EA NEMA; BSI ISO/IEC 27001:2005 ISMS Lead Auditor/ Implementer; ESG Consultant; Advocate of the High Court of Kenya; Professor at the University of Nairobi, Faculty of Law; Member of the Permanent Court of Arbitration (PCA) [February, 2024].

¹ Giovannoni. E., & Fabietti. G., 'What Is Sustainability? A Review of the Concept and Its Applications.' In: Busco, C., Frigo, M., Riccaboni, A., Quattrone, P. (eds) Integrated Reporting. Springer, Cham. Available at https://doi.org/10.1007/978-3-319-02168-3_2 (Accessed on 20/02/2024)

² Ibid

heightened the importance of forging a new relationship between people and the planet towards achieving sustainability³.

Sustainability has been defined as creating and maintaining the conditions under which humans and nature can exist in productive harmony to support present and future generations⁴. The need to strike a balance between the environmental, social and economic facets of development towards sustainability gave rise to the concept of Sustainable Development⁵. The idea of Sustainable Development refers to development that meets the needs of the present without compromising the ability of future generations to meet their own needs⁶. This concept seeks to foster sustainability by promoting environmental protection, economic development and social progress⁷. It has been adopted as the global blueprint for sustainability as envisioned under the *United Nation's 2030 Agenda for Sustainable Development*⁸ which represents a shared blue print for peace and prosperity for people and the planet in the quest towards the ideal of Sustainable Development. The Agenda envisions attainment of the ideal of Sustainable Development through 17 Sustainable Development Goals (SDGs) which seek to strike a balance between social, economic and environmental facets of sustainability⁹.

³ United Nations Environment Programme., 'The Triple Planetary Crisis: Forging a New Relationship Between People and the Earth' Available at <https://www.unep.org/news-and-stories/speech/triple-planetary-crisis-forging-new-relationship-between-people-and-earth> (Accessed on 20/02/2024)

⁴ United States Environmental Protection Agency., 'What is Sustainability.' Available at <https://www.epa.gov/sustainability/learn-about-sustainability> (Accessed on 20/02/2024)

⁵ Giovannoni. E., & Fabietti. G., 'What Is Sustainability? A Review of the Concept and Its Applications.' Op Cit

⁶ World Commission on Environment and Development., 'Our Common Future.' Oxford, (Oxford University Press, 1987)

⁷ Fitzmaurice. M., 'The Principle of Sustainable Development in International Development Law.' *International Sustainable Development Law.*, Vol 1

⁸ United Nations General Assembly., 'Transforming Our World: the 2030 Agenda for Sustainable Development.' 21 October 2015, A/RES/70/1., Available at <https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf> (Accessed on 20/02/2024)

⁹ Ibid

Various strategies have been embraced towards achieving sustainability and the SDGs at local, national, regional, continental, and global levels¹⁰. One of the key tools that is being advocated towards sustainability is environmental multilateralism¹¹. It has been argued that the global challenges facing the planet including climate change can only be addressed through mutual cooperation in the form of environmental multilateralism¹².

This paper critically explores the role of environmental multilateralism in the sustainability debate. It argues that environmental multilateralism can play a key function in unlocking sustainability. It defines environmental multilateralism and discusses the progress made towards fostering this concept. It also examines challenges facing environmental multilateralism. The paper further proposes measures towards (re) invigorating environmental multilateralism for sustainability.

2.0 Defining Environmental Multilateralism

Multilateralism refers to a situation in which different countries collaborate with the main aim of providing solutions for problems facing them¹³. It has also been defined as collaboration between several countries in pursuit of a common goal, where other parties such as civil society or the private sector may also be involved¹⁴. Multilateralism is based on collaboration between several countries to achieve common objectives, involving continuous negotiation and dialog between member states of an international or regional organization with the aim of finding consensual solutions to global challenges¹⁵. It has

¹⁰ Blincoe. K., 'Achieving Sustainability: The Ultimate Human Challenge' Available at <https://link.springer.com/book/10.1007/978-3-031-10023-9> (Accessed on 20/02/2024)

¹¹ Ivanov. I., 'What Are the Core Benefits of Multilateralism at the Present Stage?' Available at <https://russiancouncil.ru/en/analytics-and-comments/analytics/what-are-the-core-benefits-of-multilateralism-at-the-present-stage/#:~:text=Multilateralism%20is%20a%20mechanism%20for,organizations%20easily%20and%20readily%20available> (Accessed on 20/02/2024)

¹² Ibid

¹³ Karlsson-Vinkhuyzen. S., & Dahl. A., 'Building Effective Multilateralism for the Environment' Available at https://iefworld.org/fl/Policybrief_KarlssonVinkhuyzen_Dahl.pdf (Accessed on 20/02/2024)

¹⁴ Ibid

¹⁵ Ibid

been asserted that multilateralism plays an essential role in bringing countries together and establishing a common strategy with one goal: safeguarding the planet¹⁶. It has also been pointed out that global challenges facing the planet such as climate change, migration, poverty, inequalities among nations, and opportunities and risks of new technologies can only be addressed through mutual cooperation in form of multilateralism¹⁷. In addition, it has been observed that in an increasingly interconnected world, multilateralism has become a key factor in dealing with transnational problems and guaranteeing global stability and Sustainable Development¹⁸.

Multilateralism is very pertinent in environmental protection¹⁹. It has been asserted that environmental protection has become an urgent global concern and needs a joint effort from all nations to achieve significant changes²⁰. According to UNEP, addressing the triple planetary crisis of climate change, nature and biodiversity loss, and waste and pollution, as well as other global environmental challenges, requires efficient international cooperation through environmental multilateralism²¹. It points out that despite efforts by the international community, environmental degradation is continuing hence the need to unite forces at all levels to address the impacts and drivers of environmental degradation more effectively through strengthening environmental multilateralism²².

¹⁶ Ibid

¹⁷ Ivanov. I., 'What Are the Core Benefits of Multilateralism at the Present Stage?' Op Cit

¹⁸ Morgera. E., 'The EU and Environmental Multilateralism: The Case of Access and Benefit-Sharing and the Need for a Good-Faith Test' Available at https://www.researchgate.net/profile/Elisa-Morgera/publication/267926423_The_EU_and_Environmental_Multilateralism_The_Case_of_Access_and_Benefit-Sharing_and_the_Need_for_a_Good-Faith_Test/links/545d0f690cf27487b44d492d/The-EU-and-Environmental-Multilateralism-The-Case-of-Access-and-Benefit-Sharing-and-the-Need-for-a-Good-Faith-Test.pdf (Accessed on 20/02/2024)

¹⁹ Karlsson-Vinkhuyzen. S., & Dahl. A., 'Building Effective Multilateralism for the Environment' Op Cit

²⁰ Ibid

²¹ United Nations Environment Programme., 'How Multilateral Environmental Agreements Can Help Mend the Planet' Available at <https://www.unep.org/news-and-stories/story/how-multilateral-environmental-agreements-can-help-mend-planet> (Accessed on 20/02/2024)

²² Ibid

It has been pointed out that reinvigorated multilateralism is a vital tool for ensuring that national efforts join up to fix global problems²³. Among these global challenges whose management would be potentially easier through multilateral cooperation, many are environmental²⁴. It has been argued that multilateralism not only represents the most efficient, most effective, and most egalitarian approach to addressing global environmental issues, but it is quite simply the only approach that brings with it the authority, legitimacy, and resources required to tackle so vast and complex environmental problems²⁵. Environmental multilateralism is vital in helping develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources²⁶; and of promoting an international system based on stronger multilateral environmental cooperation and good global environmental governance²⁷. It is therefore necessary to strengthen environmental multilateralism for sustainability.

3.0 Progress and Challenges in Environmental Multilateralism

It has been pointed out that the main instruments available under international law for countries to collaborate on a broad range of global environmental challenges are international conventions and treaties on environment and natural resources also known as Multilateral Environmental Agreements (MEAs)²⁸. These have been defined as agreements between states which may take the form of “soft-law”, setting out non legally-binding principles which parties are obligated to consider when taking actions to

²³ United Nations Environment Programme., ‘Multilateral Action for a Green Post-COVID-19 Recovery’ Available at <https://www.unep.org/news-and-stories/speech/multilateral-action-green-post-covid-19-recovery> (Accessed on 20/02/2024)

²⁴ Gomes. F. T., ‘International Relations and the Environment: Practical Examples of Environmental Multilateralism’ Available at <https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=aebc354992380e45e32cce62d433adcfba96d038> (Accessed on 20/02/2024)

²⁵ Ibid

²⁶ Morgera. E., ‘The EU and Environmental Multilateralism: The Case of Access and Benefit-Sharing and the Need for a Good-Faith Test’ Op Cit

²⁷ Ibid

²⁸ East African Community., ‘Multilateral Environmental Agreements’ Available at <https://www.eac.int/environment/multilateral-environmental-agreements> (Accessed on 21/02/2024)

address a particular environmental issue, or “hard-law” which specify legally-binding actions to be undertaken toward an environmental objective²⁹. MEAs have also been defined as international agreements that are intended to promote international cooperation to address global environmental challenges that the world is facing today such as climate change, biodiversity loss, pollution and waste³⁰. MEAs are based on the understanding that, just as the causes and the consequences of environmental issues are global in nature, so too must be the solutions³¹. They intend to foster global cooperation in addressing environmental challenges.

It has been pointed out that MEAs are negotiated and agreed upon by member states of the United Nations at the international level, and each country is responsible for implementing such agreements at the national level³². In addition, it has been asserted that MEAs have similar features to other international treaties³³. However, they are also different in that they are intergovernmental documents whose main objective is to prevent or manage human impact on the environment and natural resources³⁴. As a result, MEAs are legally binding to countries that participate in them through ratification or accession, as well as to those who accept them through signing since that in itself assumes an "official agreement" between the States via the MEAs³⁵. It has been contended that since MEAs are not merely declarations of intent but tools of international law, they are viewed as ideal and effective means of implementing policies whose objective is environmental protection and Sustainable Development³⁶.

²⁹ Ibid

³⁰ One Planet Network., ‘Multilateral Environmental Agreements’ Available at [https://www.oneplanetnetwork.org/SDG-12/multilateral-environmental-agreements#:~:text=Multilateral%20Environmental%20Agreements%20\(MEAs\)%20are,loss%20and%20pollution%20and%20waste](https://www.oneplanetnetwork.org/SDG-12/multilateral-environmental-agreements#:~:text=Multilateral%20Environmental%20Agreements%20(MEAs)%20are,loss%20and%20pollution%20and%20waste) (Accessed on 21/02/2024)

³¹ Ibid

³² Ibid

³³ Gomes. F. T., ‘International Relations and the Environment: Practical Examples of Environmental Multilateralism’ Op Cit

³⁴ Ibid

³⁵ Ibid

³⁶ Ibid

MEAs have been identified as vital in addressing the most pressing environmental issues of global or regional concern and are critical instruments of international environmental governance and international environmental law³⁷. They cover a wide scope of issues, ranging from the protection of the atmosphere to the sustainable management of chemicals and waste, to halting nature and biodiversity loss³⁸. Amongst the global environmental issues that MEAs are designed to respond to include: loss of biological diversity, adverse impacts of climate change, depletion of the ozone layer, hazardous waste, organic pollutants, marine pollution, trade in endangered species, destruction of wetlands among others³⁹.

Among the key MEAs is the *United Nations Framework Convention on Climate Change*⁴⁰ (UNFCCC) which is an MEA geared towards combating climate change by achieving stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system⁴¹. It entails key principles and commitments by states towards confronting climate change⁴². It has been observed that one of the achievements of the UNFCCC has been to establish a reporting framework which provides information on greenhouse gases emissions and removals using common categorisation and definitions⁴³.

Another key MEA is the *Montreal Protocol on Substances that Deplete the Ozone Layer*⁴⁴. The Protocol sets out a global determination by states to protect the ozone layer by taking

³⁷ United Nations Environment Programme., 'How Multilateral Environmental Agreements Can Help Mend the Planet' Op Cit

³⁸ Ibid

³⁹ East African Community., 'Multilateral Environmental Agreements' Op Cit

⁴⁰ United Nations Framework Convention on Climate Change., United Nations, 1992., Available at <https://unfccc.int/resource/docs/convkp/conveng.pdf> (Accessed on 21/02/2024)

⁴¹ Ibid

⁴² Ibid

⁴³ National Atmospheric Emissions Inventory., 'United Nations Framework Convention on Climate Change (UNFCCC)' Available at <https://naei.beis.gov.uk/about/why-we-estimate?view=unfccc#:~:text=One%20of%20the%20achievements%20of,are%20party%20to%20the%20Convention>. (Accessed on 21/02/2024)

⁴⁴ United Nations., 'Montreal Protocol on Substances that Deplete the Ozone Layer' United Nations Treaty Series, Vol. 1522, 1-26369

precautionary measures to control equitably total global emissions of substances that deplete it, with the ultimate objective of their elimination on the basis of developments in scientific knowledge, taking into account technical and economic considerations⁴⁵. The Montreal Protocol has been identified as a landmark MEA that regulates the production and consumption of nearly 100 human-made chemicals referred to as ozone depleting substances⁴⁶. It has been hailed as one of the rare treaties to achieve universal ratification⁴⁷. With its universal ratification, the protocol has been extremely successful in its original aim of cutting the production and use of chlorofluorocarbons and other ozone-depleting substances⁴⁸. It has been observed that the protocol has succeeded in eliminating nearly 99 percent of ozone-depleting substances⁴⁹.

The *Convention on Biological Diversity*⁵⁰ is another important MEA. The Convention seeks to foster the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding⁵¹. It identifies key ways of conserving biodiversity including in-situ and ex-situ conservation⁵². The Convention has had some notable successes including increase in protected areas coverage⁵³.

⁴⁵ Ibid

⁴⁶ United Nations Environment Programme., 'About Montreal Protocol' Available at <https://www.unep.org/ozonaction/who-we-are/about-montreal-protocol> (Accessed on 21/02/2024)

⁴⁷ Ibid

⁴⁸ United Nations Environment Programme., 'How Multilateral Environmental Agreements Can Help Mend the Planet' Op Cit

⁴⁹ Ibid

⁵⁰ United Nations., 'Convention on Biological Diversity' [1993] ATS 32 / 1760 UNTS 79 / 31 ILM 818 (1992)

⁵¹ Ibid, article 1

⁵² Ibid, articles 8 & 9

⁵³ Convention on Biological Diversity., '2010 Biodiversity Target' Available at <https://www.cbd.int/2010-target/implementation/achievements.shtml#:~:text=Progress%20in%20achieving%20the%202010%20Biodiversity%20Target&text=Protected%20area%20coverage%20has%20doubled,has%20improved%20since%20the%201980s>. (Accessed on 21/02/2024)

The *Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention)*⁵⁴ is another important MEA that has played a vital role in conserving wetlands. The Convention acknowledges the fundamental ecological functions of wetlands as regulators of water regimes and as habitats supporting a characteristic flora and fauna, especially waterfowl⁵⁵. It requires contracting parties to formulate and implement plans towards promoting the conservation and wise use of the wetlands in their territory⁵⁶. It has been pointed out that the Ramsar Convention has fostered international cooperation in wetland conservation through actions such as establishing wetland restoration projects⁵⁷.

The *Convention on International Trade in Endangered Species of Wild Fauna and Flora*⁵⁸ (CITES) is another pertinent MEA which seeks to foster international co-operation in the protection of certain species of wild fauna and flora against over-exploitation through international trade. It has been pointed out that as a result of effective implementation of CITES by those who harvest, produce, trade, transport, buy and regulate the wildlife species covered by the Convention, new emergency listings of species have become increasingly rare⁵⁹. Moreover, no CITES-listed species has ever become extinct as a result of trade⁶⁰. CITES has made significant progress in preventing more species from becoming threatened by trade and enabled the recovery of species that were

⁵⁴ Convention on Wetlands of International Importance especially as Waterfowl Habitat., Available at https://www.ramsar.org/sites/default/files/documents/library/current_convention_text_e.pdf (Accessed on 21/02/2024)

⁵⁵ Ibid

⁵⁶ Ibid, article 3 (1)

⁵⁷ Ramsar Convention Secretariat., 'An Introduction to the Ramsar Convention on Wetlands, 7th ed. (previously The Ramsar Convention Manual)' Available at https://www.ramsar.org/sites/default/files/documents/library/handbook1_5ed_introductiontoconvention_final_e.pdf (Accessed on 21/02/2024)

⁵⁸ Convention on International Trade in Endangered Species of Wild Fauna and Flora., Available at <https://cites.org/sites/default/files/eng/disc/CITES-Convention-EN.pdf> (Accessed on 21/02/2024)

⁵⁹ United Nations., 'Wildlife Treaty Comes of Age -- CITES Celebrates 30 Years Of Achievement' Available at <https://press.un.org/en/2005/envdev865.doc.htm#:~:text=Thanks%20to%20the%20effective%20implementation,as%20a%20result%20of%20trade.> (Accessed on 21/02/2024)

⁶⁰ Ibid

endangered⁶¹. It currently regulates international trade in over 40,000 species of plants and animals⁶². It has been argued that CITES can help to reverse the precarious situation of high-value species of wild fauna and flora and ensure a sustainable supply⁶³.

Most recently, at COP 21, parties to the UNFCCC adopted the *Paris Agreement*⁶⁴ a legally binding international treaty on climate change. Its overarching goal is to strengthen the global response to the threat of climate change, in the context of Sustainable Development and efforts to eradicate poverty through holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels; increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production; and making finance flows consistent with a pathway towards low greenhouse gas emissions and climate resilient development⁶⁵. It has been pointed out that the Paris Agreement has strengthened the global response towards climate change by establishing Nationally Determined Contributions (NDCs) which embody efforts by each country to reduce national emissions and adapt to the impacts of climate change⁶⁶. The Paris Agreement requires each Party to prepare, communicate and maintain successive NDCs that it intends to achieve⁶⁷. It also requires parties to pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions⁶⁸.

⁶¹ United Nations Environment Programme., 'How Multilateral Environmental Agreements Can Help Mend the Planet' Op Cit

⁶² Ibid

⁶³ United Nations., 'Wildlife Treaty Comes of Age -- CITES Celebrates 30 Years Of Achievement' Op Cit

⁶⁴ United Nations Framework Convention on Climate Change., 'Paris Agreement.' Available at https://unfccc.int/sites/default/files/english_paris_agreement.pdf (Accessed on 21/02/2024)

⁶⁵ Ibid, article 2 (1)

⁶⁶ United Nations Climate Change., 'Nationally Determined Contributions (NDCs)' Available at <https://unfccc.int/process-and-meetings/the-paris-agreement/nationally-determined-contributionsndcs> (Accessed on 21/02/2024)

⁶⁷ Paris Agreement., article 4(2)

⁶⁸ Ibid

From the foregoing it is evident that MEAs have played a fundamental role in addressing global environmental challenges. It has been pointed out that MEAs are central to achieving global environmental commitments towards sustainability⁶⁹. According to UNEP, MEAs have emerged as one of the best ways of institutionalizing intergovernmental cooperation and triggering national action in the environmental sector⁷⁰.

In addition to MEAs, environmental multilateralism has been enhanced through institutions, and processes that address environmental concerns at the international level⁷¹. These include the United Nations Environment Assembly (UNEA), composed of all the United Nations (UN) Member States and tasked with providing overarching policy direction for the global environmental agenda⁷². UNEA is the world's highest-level decision-making body for matters related to the environment, with a universal membership of all 193 Member States⁷³. It sets the global environmental agenda, provides overarching policy guidance, and defines policy responses to address emerging environmental challenges⁷⁴. It also undertakes policy review, dialogue and the exchange of experiences, sets the strategic guidance on the future direction of the UN Environment Programme (UNEP), and fosters partnerships for achieving environmental goals and resource mobilization⁷⁵.

In addition, UNEP is a body within the United Nations Systems responsible for coordinating international environmental activities and supporting the implementation

⁶⁹ United Nations Environment Programme., 'How Multilateral Environmental Agreements Can Help Mend the Planet' Op Cit

⁷⁰ Ibid

⁷¹ Day. A., & Nickel. C., 'Elevating the Environment in the Multilateral System' Available at https://collections.unu.edu/eserv/UNU:9306/elevating_the_environment.pdf (Accessed on 21/02/2024)

⁷² Ibid

⁷³ The United Nations Environment Assembly., Available at <https://www.unep.org/environmentassembly/> (Accessed on 21/02/2024)

⁷⁴ Ibid

⁷⁵ Ibid

of treaty commitments⁷⁶. UNEP is tasked with strengthening environmental standards and practices while helping implement environmental obligations at the country, regional and global levels⁷⁷. UNEP's work is focused on helping countries transition to low-carbon and resource-efficient economies, strengthening environmental governance and law, safeguarding ecosystems, and providing evidence-based data to inform policy decisions⁷⁸. UNEP plays a key role in environmental multilateralism by supporting countries' efforts in the implementation of MEAs⁷⁹.

In addition, the Intergovernmental Panel on Climate Change (IPCC), is a body of the United Nations established to assess the science related to climate change⁸⁰. It prepares comprehensive Assessment Reports about the state of scientific, technical and socio-economic knowledge on climate change, its impacts and future risks, and options for reducing the rate at which climate change is taking place⁸¹. The IPCC has had significant accomplishments including its First and Second Assessment Reports, which led to the development of the UNFCCC and the Kyoto Protocol which are key MEAs on climate change⁸². In addition, its Fifth Assessment Report, finalized in October 2014, informed the negotiations and policy formulation towards the Paris Agreement in 2015⁸³.

Further, there has been growth of regional environmental agreements to address specific environmental challenges⁸⁴. For example, the East African Community (EAC) has

⁷⁶ United Nations Environment Programme., 'About the United Nations Environment Programme' Available at <https://www.unep.org/who-we-are/about-us> (Accessed on 21/02/2024)

⁷⁷ Ibid

⁷⁸ Ibid

⁷⁹ United Nations Environment Programme., 'How Multilateral Environmental Agreements Can Help Mend the Planet' Op Cit

⁸⁰ The Intergovernmental Panel on Climate Change., Available at <https://www.ipcc.ch/> (Accessed on 21/02/2024)

⁸¹ Ibid

⁸² Ibid

⁸³ Ibid

⁸⁴ Day. A., & Nickel. C., 'Elevating the Environment in the Multilateral System' Op Cit

adopted *EAC Climate Change Policy*⁸⁵ which is aimed at contributing to Sustainable Development in the EAC region through harmonized and coordinated regional strategies, programmes and actions to respond to climate change⁸⁶. The Policy identifies several ways of confronting climate change in the region which include establishing a regional framework to guide the harmonization, coordination and implementation of climate change initiatives amongst partner states⁸⁷; identifying priority adaptation and mitigation action areas and roles of partner states and other stakeholders to address climate change in the region⁸⁸; promoting public awareness and socio-economic importance of climate change including; vulnerability, impacts, risks, and response measures in the region and promoting capacity building efforts through inter alia education, training, research, technology development and transfer, information and knowledge management⁸⁹. The policy is therefore a key regional instrument geared towards responding to climate change within the EAC region.

From the foregoing, it is evident that environmental multilateralism has been vital in addressing the most pressing environmental issues of global or regional concern including the triple planetary crisis of climate change, nature and biodiversity loss, and pollution and waste⁹⁰. However, it has been pointed out that environmental multilateralism faces several concerns including implementation of and compliance with the MEAs⁹¹. In addition, it has been asserted that the inactions of a state or those of others may affect the cooperation chain in environmental multilateralism⁹². It is necessary to (re) invigorate environmental multilateralism in order to enhance sustainability.

⁸⁵ East African Community., 'East African Community Climate Change Policy.' Available at <https://www.eac.int/environment/climate-change/eac-climate-change-policy-framework> (Accessed on 21/02/2024)

⁸⁶ Ibid

⁸⁷ Ibid

⁸⁸ Ibid

⁸⁹ Ibid

⁹⁰ United Nations Environment Programme., 'How Multilateral Environmental Agreements Can Help Mend the Planet' Op Cit

⁹¹ Ibid

⁹² Gomes. F. T., 'International Relations and the Environment: Practical Examples of Environmental Multilateralism' Op Cit

4.0 Way Forward

In order to enhance environmental multilateralism, it is important to strengthen implementation of and compliance with the MEAs⁹³. It has been pointed out that these agreements have emerged as one of the best ways of institutionalizing intergovernmental cooperation and triggering national action in the environmental sector⁹⁴. MEAs are vital in responding to global and regional environmental challenges such as loss of biological diversity, adverse impacts of climate change, depletion of the ozone layer, hazardous waste, organic pollutants, marine pollution, trade in endangered species, destruction of wetlands among others⁹⁵. It is therefore vital for all countries to foster implementation and compliance with MEAs. International institutions such as UNEP also have a key role to play in supporting countries' efforts in the implementation of MEAs⁹⁶.

In addition, it is necessary to enhance monitoring of international and regional environmental commitments in order to promote accountability⁹⁷. It has been pointed out that there exists gaps between international commitments and state practices in environmental governance⁹⁸. According to UNEP, despite efforts by the international community, environmental degradation is continuing⁹⁹. It has been suggested that international bodies including UNEP and the UNEA should be provided with a special rapporteur group possessing mandates to investigate and report publicly on environmental violations¹⁰⁰. This will promote public reporting on the gaps between international commitments and current trends, including those related to carbon

⁹³ United Nations Environment Programme., 'How Multilateral Environmental Agreements Can Help Mend the Planet' Op Cit

⁹⁴ Ibid

⁹⁵ East African Community., 'Multilateral Environmental Agreements' Op Cit

⁹⁶ United Nations Environment Programme., 'How Multilateral Environmental Agreements Can Help Mend the Planet' Op Cit

⁹⁷ Day. A., & Nickel. C., 'Elevating the Environment in the Multilateral System' Op Cit

⁹⁸ Ibid

⁹⁹ United Nations Environment Programme., 'How Multilateral Environmental Agreements Can Help Mend the Planet' Op Cit

¹⁰⁰ Day. A., & Nickel. C., 'Elevating the Environment in the Multilateral System' Op Cit

emissions, pollution, and encroachment on protected sea and land areas among other environmental commitments¹⁰¹. This will strengthen environmental multilateralism by ensuring that states are held accountable for their environmental commitments¹⁰².

It is also important to strengthen the roles of international bodies such as UNEP in order to bolster their role in environmental governance¹⁰³. It has been argued that the mandates of international organizations are too weak to deliver on the environmental goals and actions agreed since 1972, with only one tenth of targets achieved¹⁰⁴. As a result, it has been suggested that there is need to reform UNEP in order to give it the mandate to orchestrate the institutions across the global environmental system, defining a coherent global strategy for enabling and accompany States and other actors to comply with their obligations under MEAs and act towards achieving globally adopted goals¹⁰⁵. Some of the key reforms areas that have been identified in order to strengthen the role of UNEP include improving its ability to: provide or identify sufficient funding and capacity building for countries¹⁰⁶; provide regular reports on country implementation and compliance with their environmental responsibilities and based on this provide reciprocal learning programmes to build trust and mutual understanding for countries environmental management challenges¹⁰⁷; coordinate and continuously evaluate international collaboration in various sectors and forums including public, multistakeholder and public-private partnerships¹⁰⁸; and assist international trade and finance institutions to incorporate environmental responsibilities into their statutes¹⁰⁹. A strong international environmental body such as UNEP is integral in fostering

¹⁰¹ Ibid

¹⁰² Ibid

¹⁰³ United Nations Environment Programme., 'How Multilateral Environmental Agreements Can Help Mend the Planet' Op Cit

¹⁰⁴ Karlsson-Vinkhuyzen. S., & Dahl. A., 'Building Effective Multilateralism for the Environment' Op Cit

¹⁰⁵ Ibid

¹⁰⁶ Ibid

¹⁰⁷ Day. A., & Nickel. C., 'Elevating the Environment in the Multilateral System' Op Cit

¹⁰⁸ Ibid

¹⁰⁹ Ibid

environmental multilateralism due to its ability to design, coordinate, and promote the implementation of global environmental commitments¹¹⁰.

There is also need to consolidate the many MEAs into a coherent, coordinated and efficient legal framework to avoid overburdening countries with so many multiple processes and obligations¹¹¹. The great and increasing number of MEAs is identified as an impediment to the efficient and effective functioning of the system¹¹². Problems identified in this respect include in particular: an increasing potential for double-work and conflict between different MEAs¹¹³; a growing demand for co-ordination¹¹⁴; and the amount of resources required from countries and other actors such as inter-governmental organisations, and Non-Governmental Organisations (NGOs for effective participation in the system¹¹⁵. Consolidation of the many MEAs into a coherent, coordinated and efficient legal framework has been identified as a key way of avoiding fragmentation and enhancing compliance and monitoring¹¹⁶.

Finally, it is important to reform the environmental multilateralism system in order to ensure inclusivity and participation of all stakeholders including developing countries, youth, women and other marginalized groups who are often left behind¹¹⁷. It has been asserted that the multilateral system for protecting our planet will not be strengthened unless and until the quality of the preceding negotiation process improves and is open to the voices of all those potentially affected¹¹⁸; transparent in reasoning and process of mutual justification¹¹⁹; and respectful of all participants¹²⁰. It is therefore necessary to

¹¹⁰ Karlsson-Vinkhuyzen. S., & Dahl. A., 'Building Effective Multilateralism for the Environment' Op Cit

¹¹¹ Ibid

¹¹² Oberthur. S., 'Clustering of Multilateral Environmental Agreements: Potentials and Limitations' Available at <https://archive.unu.edu/inter-linkages/docs/IEG/Oberthur.pdf> (Accessed on 21/02/2024)

¹¹³ Ibid

¹¹⁴ Ibid

¹¹⁵ Ibid

¹¹⁶ Karlsson-Vinkhuyzen. S., & Dahl. A., 'Building Effective Multilateralism for the Environment' Op Cit

¹¹⁷ Ibid

¹¹⁸ Ibid

¹¹⁹ Ibid

¹²⁰ Ibid

ensure that MEAs take into account inclusive discussion and decision-making through broader participation among other approaches¹²¹. This calls for enhanced education and capacity building in order to ensure effective, inclusive and sustainable multilateral actions to tackle climate change, biodiversity loss and pollution among other environmental challenges¹²².

Through the foregoing among other measures, environmental multilateralism will be (re)invigorated for sustainability.

5.0 Conclusion

Environmental multilateralism is vital in helping develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources¹²³; and of promoting an international system based on stronger multilateral environmental cooperation and good global environmental governance¹²⁴. There has been progress towards strengthening environmental multilateralism through MEAs, regional environmental agreements, and institutions, and processes that address environmental concerns at the international level such as UNEA, UNEP, IPCC¹²⁵. However, environmental multilateralism faces several concerns including implementation of and compliance with the MEAs¹²⁶. As a result, it is necessary to (re) invigorate environmental multilateralism in order to achieve sustainability. This can be realized through strengthening implementation of and compliance with the

¹²¹ African Union., 'Multilateral Environmental Agreements (MEAs)' Available at <https://au.int/en/meas> (Accessed on 21/02/2024)

¹²² United Nations Environment Programme., 'How Multilateral Environmental Agreements Can Help Mend the Planet' Op Cit

¹²³ Morgera. E., 'The EU and Environmental Multilateralism: The Case of Access and Benefit-Sharing and the Need for a Good-Faith Test' Op Cit

¹²⁴ Ibid

¹²⁵ Day. A., & Nickel. C., 'Elevating the Environment in the Multilateral System' Op Cit

¹²⁶ Ibid

MEAs¹²⁷; enhancing monitoring of international and regional environmental commitments in order to promote accountability¹²⁸; strengthening the roles of international bodies such as UNEP in order to bolster their role in environmental governance¹²⁹; consolidating the many MEAs into a coherent, coordinated and efficient legal framework¹³⁰; and reforming the environmental multilateralism system in order to ensure inclusivity and participation of all stakeholders¹³¹. (Re) invigorating environmental multilateralism for sustainability is an agenda that we must pursue for posterity.

¹²⁷ United Nations Environment Programme., 'How Multilateral Environmental Agreements Can Help Mend the Planet' Op Cit

¹²⁸ Day. A., & Nickel. C., 'Elevating the Environment in the Multilateral System' Op Cit

¹²⁹ United Nations Environment Programme., 'How Multilateral Environmental Agreements Can Help Mend the Planet' Op Cit

¹³⁰ Karlsson-Vinkhuyzen. S., & Dahl. A., 'Building Effective Multilateralism for the Environment' Op Cit

¹³¹ Ibid

References

African Union., 'Multilateral Environmental Agreements (MEAs)' Available at <https://au.int/en/meas>

Blincoe. K., 'Achieving Sustainability: The Ultimate Human Challenge' Available at <https://link.springer.com/book/10.1007/978-3-031-10023-9> (Accessed on 20/02/2024)

Convention on Biological Diversity., '2010 Biodiversity Target' Available at <https://www.cbd.int/2010-target/implementation/achievements.shtml#:~:text=Progress%20in%20achieving%20the%202010%20Biodiversity%20Target&text=Protected%20area%20coverage%20has%20doubled,has%20improved%20since%20the%201980s>

Convention on International Trade in Endangered Species of Wild Fauna and Flora., Available at <https://cites.org/sites/default/files/eng/disc/CITES-Convention-EN.pdf>

Convention on Wetlands of International Importance especially as Waterfowl Habitat., Available at https://www.ramsar.org/sites/default/files/documents/library/current_convention_text_e.pdf

Day. A., & Nickel. C., 'Elevating the Environment in the Multilateral System' Available at https://collections.unu.edu/eserv/UNU:9306/elevating_the_environment.pdf

East African Community., 'East African Community Climate Change Policy.' Available at <https://www.eac.int/environment/climate-change/eac-climate-change-policy-framework>

East African Community., 'Multilateral Environmental Agreements' Available at <https://www.eac.int/environment/multilateral-environmental-agreements>

Fitzmaurice. M., 'The Principle of Sustainable Development in International Development Law.' *International Sustainable Development Law.*, Vol 1

Giovannoni. E., & Fabietti. G., 'What Is Sustainability? A Review of the Concept and Its Applications.' In: Busco, C., Frigo, M., Riccaboni, A., Quattrone, P. (eds) *Integrated Reporting*. Springer, Cham. Available at https://doi.org/10.1007/978-3-319-02168-3_2

Gomes. F. T., 'International Relations and the Environment: Practical Examples of Environmental Multilateralism' Available at <https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=aebc354992380e45e32cce62d433adcfba96d038>

Ivanov. I., 'What Are the Core Benefits of Multilateralism at the Present Stage?' Available at <https://russiancouncil.ru/en/analytics-and-comments/analytics/what-are-the-core-benefits-of-multilateralism-at-the-present-stage/#:~:text=Multilateralism%20is%20a%20mechanism%20for,organizations%20easily%20and%20readily%20available>

Karlsson-Vinkhuyzen. S., & Dahl. A., 'Building Effective Multilateralism for the Environment' Available at https://iefworld.org/fl/Policybrief_KarlssonVinkhuyzen_Dahl.pdf

Morgera. E., 'The EU and Environmental Multilateralism: The Case of Access and Benefit-Sharing and the Need for a Good-Faith Test' Available at https://www.researchgate.net/profile/Elisa-Morgera/publication/267926423_The_EU_and_Environmental_Multilateralism_The_Case_of_Access_and_Benefit-Sharing_and_the_Need_for_a_Good-Faith_Test/links/545d0f690cf27487b44d492d/The-EU-and-Environmental-Multilateralism-The-Case-of-Access-and-Benefit-Sharing-and-the-Need-for-a-Good-Faith-Test.pdf

National Atmospheric Emissions Inventory., 'United Nations Framework Convention on Climate Change (UNFCCC)' Available at <https://naei.beis.gov.uk/about/why-we-estimate?view=unfccc#:~:text=One%20of%20the%20achievements%20of,are%20party%20to%20the%20Convention.>

Oberthur. S., 'Clustering of Multilateral Environmental Agreements: Potentials and Limitations' Available at <https://archive.unu.edu/interlinkages/docs/IEG/Oberthur.pdf>

One Planet Network., 'Multilateral Environmental Agreements' Available at <https://www.oneplanetnetwork.org/SDG-12/multilateral-environmental->

[agreements#:~:text=Multilateral%20Environmental%20Agreements%20\(MEAs\)%20are,loss%20and%20pollution%20and%20waste](#)

Ramsar Convention Secretariat., 'An Introduction to the Ramsar Convention on Wetlands, 7th ed. (previously The Ramsar Convention Manual)' Available at https://www.ramsar.org/sites/default/files/documents/library/handbook1_5ed_introductiontoconvention_final_e.pdf

The Intergovernmental Panel on Climate Change., Available at <https://www.ipcc.ch/>

The United Nations Environment Assembly., Available at <https://www.unep.org/environmentassembly/>

United Nations Climate Change., 'Nationally Determined Contributions (NDCs)' Available at <https://unfccc.int/process-and-meetings/the-paris-agreement/nationally-determined-contributionsndcs>

United Nations Environment Programme., 'About Montreal Protocol' Available at <https://www.unep.org/ozonaction/who-we-are/about-montreal-protocol>

United Nations Environment Programme., 'About the United Nations Environment Programme' Available at <https://www.unep.org/who-we-are/about-us>

United Nations Environment Programme., 'How Multilateral Environmental Agreements Can Help Mend the Planet' Available at <https://www.unep.org/news-and-stories/story/how-multilateral-environmental-agreements-can-help-mend-planet>

United Nations Environment Programme., 'Multilateral Action for a Green Post-COVID-19 Recovery' Available at <https://www.unep.org/news-and-stories/speech/multilateral-action-green-post-covid-19-recovery>

United Nations Environment Programme., 'The Triple Planetary Crisis: Forging a New Relationship Between People and the Earth' Available at <https://www.unep.org/news-and-stories/speech/triple-planetary-crisis-forging-new-relationship-between-people-and-earth>

United Nations Framework Convention on Climate Change., 'Paris Agreement.' Available at https://unfccc.int/sites/default/files/english_paris_agreement.pdf

United Nations Framework Convention on Climate Change., United Nations, 1992., Available at <https://unfccc.int/resource/docs/convkp/conveng.pdf>

United Nations General Assembly., 'Transforming Our World: the 2030 Agenda for Sustainable Development.' 21 October 2015, A/RES/70/1., Available at <https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf>

United Nations., 'Convention on Biological Diversity' [1993] ATS 32 / 1760 UNTS 79 / 31 ILM 818 (1992)

United Nations., 'Montreal Protocol on Substances that Deplete the Ozone Layer' United Nations Treaty Series, Vol. 1522, 1-26369

United Nations., 'Wildlife Treaty Comes of Age -- CITES Celebrates 30 Years Of Achievement' Available at <https://press.un.org/en/2005/envdev865.doc.htm#:~:text=Thanks%20to%20the%20effective%20implementation,as%20a%20result%20of%20trade>

United States Environmental Protection Agency., 'What is Sustainability.' Available at <https://www.epa.gov/sustainability/learn-about-sustainability>

World Commission on Environment and Development., 'Our Common Future.' Oxford, (Oxford University Press, 1987)