



**Preliminary Comments on the Chairman's Paper entitled *Institutional Framework for Sustainable Development* dated 8 May 2002
Fourth Session of the Preparatory Committee for the
World Summit on Sustainable Development¹**

May 2002

I. Introduction

The Chairman's 8 May 2002 draft text regarding the *Institutional Framework for Sustainable Development* represents a considerable improvement of the previous draft, and reflects considerable work by the Vice-Chairs and the WSSD secretariat². Nevertheless, there are still opportunities to develop and strengthen the text to present a clear and coherent picture of the institutional changes required to meet the challenges of sustainable development.

II. General comments

There are a number of areas in which the text could be strengthened. First, the paper could go further towards acknowledging the fundamental role of the protection and promotion of human rights both as a means to and an ultimate end of sustainable development. Currently, human rights are mentioned only once in the document, and only in the specific context of the interrelationship between human rights and environmental protection (paragraph 33). In our view, human rights should receive greater prominence in the document, including in its introductory text.

Second, the text could be strengthened by systematically examining areas where greater coherence is required between economic governance and governance relating to the social and environmental dimensions of sustainable development. Greater cooperation and understanding, for example, is required on the relationship between past and proposed future liberalization of trade in goods and services, and of investment by regional and global trading institutions, on one hand, and rules at the local, national, regional and global levels for environment protection, social development and the protection and promotion of human rights, on the other. We note that the document uses the term "international" to mean "global". The latter term is preferable, because regional

¹ The Center for International Environmental Law (CIEL) is a public interest, not-for-profit environmental law firm founded in 1989 to strengthen international and comparative environmental law and policy around the world. CIEL's goals aim, among other things, at solving environmental problems and promoting sustainable societies through the use of law and at incorporating fundamental principles of ecology and justice into international law.

² CIEL has commented on Sections I to IX of the Chairman's Paper in a separate CIEL memo.

arrangements are also “international”. We thus suggest that the text is amended accordingly.

Third, a key element in developing a more responsive framework of governance is through systematic assessment of policies and projects, and through participation by major groups. While participation of major groups has received considerable coverage in the text (a whole final section), greater attention could be given to the need to measure and assess the impacts of past policies and projects – including structural adjustment programs, the lending practices of international financial institutions, and trade liberalization – on progress towards sustainable development. It is by learning from past successes and failures that future policies and projects will make maximum contribution towards sustainable development.

Fourth, “type 2” partnerships/initiatives will represent a central part of the Johannesburg outcomes. Since they are required to have clear objectives and set specific targets and timeframes for their achievement, a system should be put in place to monitor their implementation. The text on the institutional framework should explicitly reflect the need for a follow-up mechanism and call for the Commission on Sustainable Development (or another international body) to serve as a forum to monitor in a transparent manner the implementation of the partnerships/initiatives through a publicly accessible reporting system.

Finally, we also urge that states consider several changes to enhance international institutional capacity with respect to protecting human health and the environment. Consideration should be given to upgrading the status of the United Nations Environment Program (UNEP) to that of a specialized agency and making it the centerpiece of a “UN Environment Group” (UNEG) designed to ensure cooperative decision making and coordinated action on environmental issues within the United Nations, as well as coordinated environmental input to the sustainable development programs of the UN. In addition, the secretariats of the biological diversity, climate change, desertification, ozone depletion and other related conventions should be brought under a single framework for administrative and policy coordination purposes; states should also consider the obvious advantages of a common geographical location for these. Finally, consideration should be given to redefining the role of the Trusteeship Council to provide oversight and systemic coordination of the organizations and activities that affect the biosphere, including the global commons such as the atmosphere, oceans and outer space. We understand that these issues have been considered elsewhere, but they are so important that they warrant attention at the head of state level during the WSSD. We have not included specific textual suggestions regarding these issues.

III. Specific comments and suggested textual changes

Introduction (Paragraph 1)

The introduction notes that ensuring an effective institutional framework at all levels is key to realizing the goals of sustainable development. The introduction could be improved in by:

- Noting the need to strengthen the institutions forming the social and environmental pillars of sustainable development, and to reform existing international economic

institutions such as the WTO and the international financial institutions to ensure that they promote the protection of human rights and sustainable development.

- More clearly separating the ultimate ends of sustainable development governance, and the means to achieving those ends. Currently, the text mixes ends or goals such as the Millennium Development Goals (paragraph 2(f)) (paragraph 2(f)) with means, such as “ensuring coherence and policy integration” (paragraph 2(a)). This could be addressed by keeping substantive goals under the heading “objectives”, and by adding a subsequent section to collect the more procedural means such as ensuring coherence and policy integration.

In addition, references in paragraph 1 to strengthening the institutional framework for sustainable development at the global, regional and national levels should be complemented with a reference to the local level as this is ultimately where most sustainable development challenges arise and must be resolved.

Suggested amendment: In the second sentence of paragraph 1 replace the words “international, regional and national levels” with “global, regional, national and local levels”.

Strengthening the institutional framework for sustainable development at the global level

Paragraph 3(a)

Protection and promotion of human rights make an important contribution to the realization of long-term sustainable development goals. Currently, human rights are not mentioned explicitly in the text as it relates to strengthening the institutional framework for sustainable development at the international level.

Suggested amendment: Add a final phrase to paragraph 3(a) stating “and the protection and promotion of fundamental human rights”.

Paragraph 3(b)

We strongly support statements urging international financial organizations to ensure that their macroeconomic policies and structural reforms take full account of, and are supportive of, sustainable development objectives and priorities. These references could be expanded to also cover all projects and programs undertaken by international financial institutions, and to mention the need to respect the rights of resource dependent local communities.

Suggested amendment: After “ensure that their macroeconomic polices and structural reforms” insert the text “, as well as other programmes and polices”.

Paragraph 3(c):

Text promoting more open decision-making processes of international finance and trade institutions should be paralleled in the regional section of the paper with a reference to regional finance and trade institutions. In addition, specific reference here could be

made to the need to integrate sustainable development objectives into policies and programmes of international finance and trade bodies.

Suggested amendment: After the text “take concrete steps towards ensuring that...” add the text “sustainable development objectives are fully integrated into the policies and programmes of international finance and trade institutions, and that...”

Paragraph 3(d)

Enhanced efforts are required to understand the links between trade, finance, environment and social development. While policy dialogue is necessary, these discussions must also be underpinned by detailed on the ground assessment and analysis.

Suggested amendment: After the text “Promote a better understanding, including through...” add the text “integrated assessment and”.

Additionally, text calling for policy dialogue on the relationship between the rules of the multilateral trading system and multilateral environmental agreements should be strengthened by explicit reference to the ongoing process of collaboration between UNEP, MEA Secretariats, the WTO and UNCTAD.

Suggested amendment: Add a new final phrase to Paragraph 3(d) stating “, including by supporting efforts by UNEP, MEAs, WTO and UNCTAD, involving representatives of government, intergovernmental organizations and civil society, to realize synergies and reduce potential tensions between the WTO and MEAs.”

Paragraph 3(e)

We support calls for strengthened collaboration between the UN system, international financial institutions and the WTO if it is conducted under the auspices of the UN and reports to UN organs such as ECOSOC and CSD. Paragraph 3(e) should be amended to include requirements (similar to those currently in paragraphs 12 and 13) which require collaborative partnerships between these institutions to keep ECOSOC and the CSD fully informed of their actions.

Suggested amendment: Add to the end of paragraph 3(e) the text “and will keep ECOSOC and the CSD fully informed on actions that are being taking to implement Agenda 21 and WSSD outcomes”.

Paragraph 3(l)

We strongly support the development of a framework for trans-national corporation accountability.

Paragraph 15

This paragraph mentions a “principle of non-discrimination among major MEAs”. While we support the paragraph’s intent of developing a financial mechanism for major MEAs, we are not aware of a general principle of “non-discrimination” among MEAs.

Strengthening the institutional framework for sustainable development at the regional level

Due to similarities in levels of development, and geographical contiguity, regional governance may provide the best vehicle for addressing some of the negative consequences of economic globalization. This section of the text could be augmented to note the role of regional processes in developing frameworks to develop the social and environmental safeguards required to address the potential negative implications associated with the liberalization of investment and trade in goods and services.

Paragraph 17

Currently, the text on strengthening the institutional framework for sustainable development at the regional level does not underline the importance of ensuring the protection and promotion of fundamental human rights. As at the global level, efforts at the regional level to promote sustainable development should respect, and are complemented by the protection and promotion of, human rights.

Suggested amendment: After the text “Effectively pursue implementation of Agenda 21 and WSSD outcomes”, add the text “, the protection and promotion of human rights”.

Paragraph 19(b)

Suggested amendment: Add a new phrase to the end of this paragraph stating “and measures to address the potential negative social and environmental consequences of liberalization of trade in goods and services, and of investment.”

Strengthening the institutional framework for sustainable development at the national level

As this section addresses both the national and the local levels the title should be amended by replacing the words “national level” with “national and local levels”.

Paragraph 27

National assessment of trade and trade-related policies is an essential prerequisite to developing national measures to address the potential negative impacts of trade liberalization, and to develop the information necessary to make informed decisions about proposed future trade liberalization.

Suggested amendment: Add a new paragraph 27(g) stating “New and additional capacity to undertake integrated assessment of trade agreements and trade liberalization”.

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