



A Preliminary Examination of the
Possibilities for the Institutional
Representation of the Interest of
Future Generations and
Environmental Protection within
the System of the United Nations

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**STAKEHOLDER
FORUM**

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Sdg2012 is Stakeholder Forum's Programme on Sustainable Development Governance towards the UN Conference on Sustainable Development in 2012 (UNCSD), also known as 'Rio+20' and 'Earth Summit 2012'. The programme consists of the following activities:

- **Thought Leadership** – writing and commissioning think pieces on issues relating to sustainable development governance, to stimulate and inform discussion on this issue towards Rio+20
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I. Summary

This study examines the possible ways of establishing a new United Nations (UN) Office of the High Commissioner for Future Generations/Environment. At the same time we keep in mind the task of increasing the effectiveness of the UN's environmental functions by rationalising the competences of present bodies. This would mean partly eliminating the parallel functions and partly creating solid institutional network.

In our analysis we would like to survey the parallel environmental work and responsibilities of several commissions, programs and divisions under the aegis of the organisation of the United Nations, which all deal with similar environmental issues of sustainable development, but from a different aspect, using different methods and addressing different parties (*see chapter II.1*). Multiple approaches of similar tasks assigned to several organisations can be a sign of a healthy operation of an organisational system. However, this arrangement leads to the necessity of closer cooperation among these system elements, furthermore raises the possibility of streamlining the operations of the system.

The overlapping missions and duties of the analyzed UN organisations include supervision of the implementation of environmental treaties, and support of the proper functioning of networks of international organisations, state bodies, professionals and NGOs. Strengthening public participation and capacity building in environmental fields, are also amongst the most typical shared functions (*see chapter II.2*).

In order to eliminate the overlaps among the mandates and duties of these bodies dealing with environmental and sectoral issues, as well as to facilitate and strengthen the coordination of the UN's environmental and development-related functions, furthermore to enforce future generations' interests, a High Commissioner for Future Generations/Environment (HCFG) under the supervision of the Secretariat General should be established. The HCFG could undertake a part of the overlapping workload and support the coordination of international initiatives in environmental monitoring, assessment and reporting (*see chapter III.1*).

This future institution should receive some competences, human resources and financial means from the present UN bodies, as well as some new competences, the fulfilment of which could be mostly covered by the human and financial resources transferred from the other mentioned bodies. In accordance with the historical ombudsman functions, this new, independent UN body could perform two main functions at international level: quasi "parliamentary advocacy" and "complaint officer" (*see chapter III.2*).

As a quasi "*parliamentary advocate*" for the environment and for the interests of future generations, the HCFG could manage more effectively the interrelationships of environmental and developmental issues, and ensure that general decision-making procedures across the UN take environmental considerations into account in a more systematic way. It could also encourage international, regional and national actions to address system faults, gaps and weaknesses in the present environmental legislation. The HCFG could endorse the implementation of environmental law and sustainable development related law by monitoring and evaluating international activities.

As a "*complaint officer*", the HCFG would receive and investigate direct complaints from victims of environmental violations, or from citizens detecting faults in, respectively violations of the implementation of international treaties. Handling complaints could be a substantial and independent resource of information about such implementation. We also have to refer to the fact that by assessing individual countries' efforts, the HCFG could have real possibilities to prevent or mitigate environmental threats in concrete cases, including priority ones that are difficult to tackle with on national level.

These two main roles of the HCFG could be fulfilled by the legal instrument of recommendations to the UN itself and to the Member States and/or their authorities.

All these activities could be carried out by setting up a widespread network of information exchange and consultation among international, regional organisations, national state bodies, local communities, other institutions, experts and NGOs, furthermore by analysing relevant input from NGOs and professionals including the scientific and private sector. This network could facilitate inter-agency and inter-organizational cooperation, exchange and share of information, as well as catalyze activities and partnerships within the UN system and with other stakeholders.

II. A survey of the UN's organisational system concerning environmental and sustainable development issues

In this chapter we are going to analyse the tasks and authorities of the UN bodies, in order to map out their environmental elements. We write in *italics* the ones that might be especially relevant from the aspect of shaping the role and responsibilities of HCFG. We also try to highlight the relations between the existing bodies and HCFG with the notes in brackets.

II.1. Relevant existing organisations

1. The main bodies
 - 1.1. General Assembly (GA)
 - 1.2. Economic and Social Council (ECOSOC)
 - 1.3. Secretariat General (SG)
2. United Nations Environmental Programme (UNEP)
- 3 Commission on Sustainable Development (CSD)
- 4 Office of the High Commissioner for Human Rights (OHCHR)

II.1.1.1. General Assembly (GA)

First of all, the GA, as the highest intergovernmental mechanism is the key operational body and the platform of multilateral discussion within UN. It accomplishes the following functions:

- policy-making
- deliberation
- representation.

According to the articles 9, 13 and 15 of the Charter of the UN (Charter) the GA consists of all the Members of the United Nations and each Member has not more than five representatives. The GA may discuss any questions or any matters within the scope of the Charter or relating to the powers and functions of any organs and make recommendations to the Members of the UN or to the Security Council or to both on any such questions or matters.

The GA initiates studies and makes recommendations for the purpose of:

- a. promoting international co-operation in the political field and encouraging the progressive development of international law and its codification;
- b. promoting international co-operation in the economic, social, cultural, educational, and *health* fields, and assisting in the realization of *human rights* and fundamental freedoms for all without distinction as to race, sex, language, or religion.

A number of resolutions have been adopted by the GA reaffirming that environment and sustainable development have a central role in the UN's work. It deals with environment and sustainable development in the process of standard setting, draft laws and regulation, as well in the implementation of measures adopted.

It liaises with all other UN bodies in order to achieve improved coordination of UN activities.

II.1.1.2. Economic and Social Council (ECOSOC)

In accordance with articles 61 to 72 of the Charter, the ECOSOC consists of 54 Members of the UN elected by the GA. The ECOSOC may make or initiate studies and reports with respect to international economic, social, cultural, educational, *health, and related matters* and may make recommendations with respect to any such matters to the GA, to the Members of the UN, and to the specialized agencies concerned. It may prepare draft conventions for submission to the GA, with respect to matters falling within its competence.

Its environmental related functions are to restructure and revitalise UN activities, integrating environmental and developmental issues within UN policies and programmes. ECOSOC manages sustainable development coordination within UN system. (Note: the requirement of revitalisation entails with critical analysis of the interrelationship of the environmental and developmental issues within the UN system. An independent monitoring body could seriously contribute to the success of this activity.)

The ECOSOC assists the GA by overseeing system-wide coordination in the implementation of Agenda 21 and makes recommendations in this regard.

II.1.1.3. Secretariat General (SG)

According to articles 97 to 101 of the Charter the SG comprises a Secretary-General and such staff as the organization of the UN may require. The Secretary-General shall be appointed by the GA upon the recommendation of the Security Council.

The Secretary General is the chief administrative officer of the UN and acts in that capacity in all meetings of the GA, of the Security Council, of the ECOSOC, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the GA on the work of the UN. (Note: the environmental chapter of this annual report shall grow in importance in the coming years. An independent monitoring body within the UN system could contribute to the prestige and efficiency of such a chapter in the SG's report.)

II.1.2. United Nations Environmental Program (UNEP)

The mandate and structure of UNEP

UNEP is subjected to the general supervision of the GA as a subsidiary programme. Critics of the UN about its status often suggest that being a subsidiary programme restricts the influence and effectiveness of UNEP's work. However, the resources available for UNEP and its widespread network in the World's governments, international and national environmental civic and scientific organisations, make UNEP a very influential and effective actor.

The mandate and objectives of UNEP emanate from:

- UN GA resolution 2997 (XXVII) of 15 December 1972;
- Agenda 21;
- the Nairobi Declaration on the Role and Mandate of UNEP, adopted in 1997;
- the Malmö Ministerial Declaration and the UN Millennium Declaration, adopted in 2000; and
- recommendations related to international environmental governance approved by the 2002 and the 2005 World Summit.

UNEP is the voice for the environment and the environmental conscience within the United Nations system. Its mandate is to coordinate the development of environmental policy consensus by keeping the global environment under review and bringing emerging issues to the attention of governments and the international community for action. UNEP is an advocate, educator, catalyst and facilitator, promoting the wise use of the planet's natural assets for sustainable development.

UNEP works with many partners, including UN entities, international organizations, national governments, non-governmental organizations, business, industry, the media and civil society.

UNEP's responsibility includes the following questions:

- To promote international cooperation in the field of environment;
- To recommend appropriate policies;
- To monitor the status of the global environment, assess global, regional and national conditions and trends;
- To collect and disseminate environmental information;
- To catalyse an effective action against major environmental threats;
- To facilitate the coordination of UN activities concerning environmental issues, and ensure, through *cooperation, liaison and participation*, that their activities take environmental considerations into account (note: an independent body for handling citizens' complaints about environmental conflicts would strengthen these tasks of UNEP, especially through cooperation and liaison with NGOs and local communities, furthermore supporting public participation too);
- To strengthen institutions for the wise management of the environment;
- To help, upon request, ministries of environment and other environmental authorities - particularly in developing countries and countries with economies in transition - to formulate and implement environmental policies;
- To help to develop international environmental law and to develop international and national environmental agreements and legal instruments;
- *To provide expert advice on the development and use of environmental concepts and instruments* (note: citizens' complaints could be best handled in most instances also with the help of proper expert advices – the multidisciplinary approach should form a basic part of HCFG's mandate);
- To develop regional programmes for the environment, which shall include major results of the UNEP environmental activities;
- To strengthen environmental protection and incorporate the environment into the sustainable development process;
- To support decision-making and international consensus on the main environmental threats and on the responses to them;
- To encourage public awareness and capacity for environmental management and effective national and international responses to environmental threats;
- To facilitate the transfer of knowledge and technology for sustainable development.

The main body of the UNEP is the **Governing Council** which was established in accordance with GA resolution 2997 (XXVII) with **58 members elected by the GA**, for a four-year term, taking into account the principle of equitable regional representation. Governing Council reports to the GA through the ECOSOC. Main functions and responsibilities of the Governing Council of UNEP are provided by the GA resolution 2997 (XXVII).

Pursuant to GA resolution 53/242 of 28 July 1999, the **Global Ministerial Environment Forum** (GMEF) is convened annually to review important and emerging policy issues with the Governing Council. The GMEF meets annually as part of the UNEP Governing Council's regular and special sessions, has greatly enhanced UNEP's capacity to identify and evolve consensus on current and emerging environmental challenges.

To ensure its global effectiveness UNEP supports six regional offices, plus a growing network of centres of excellence such as the Global Resource Information Database (GRID) centres and the UNEP World Conservation Monitoring Centre (UNEP-WCMC). UNEP also has major offices in Geneva and Paris, where its Division of Technology, Industry and Economics is situated.

UNEP has **seven divisions**:

- **Division of** Early Warning and Assessment
- **Division of Environmental Policy and Implementation (DEPI)**
- **Division of** Technology, Industry and Economics
- **Division of** Regional Cooperation
- **Division of Environmental Law and Conventions (DELIC)**
- **Division of** Communications and Public Information
- **Division of** Global Environment Facility (GEF)

Environmental legislation and its implementation under the aegis of UNEP

UNEP's environmental law activities are carried out within the framework of strategic Programmes for the Development and Periodic Review of Environmental Law (Montevideo Programmes) approved by the Governing Council every ten years.

Over the past 30 years, UNEP was significantly involved in developing legally and non-legally binding instruments. Today, UNEP is also working to ensure that the policies pursued under existing conventions remain as mutually supportive as possible.

UNEP's efforts to promote the development of international law include:

- Assistance of Governments, particularly of those of developing countries and countries with economies in transition, in the development of international legal instruments in the field of the environment;
- Promotion and providing legal advisory services for the development or strengthening of regional and global multilateral environmental agreements;
- *Encouragement of international action to address gaps and weaknesses in existing international environmental law* (note: handling citizens' complaints by an independent body would enhance the screening activity for gaps, especially in the implementation of the existing international environmental law.);
- Responding to new environmental challenges;
- Development and promotion of soft law instruments, such as codes of conduct and guidelines;
- Providing trainings in environmental law matters and promotion of education in the same field, including Judges Programmes;
- Enhancement of information on environmental law through production and dissemination of environmental law publications and collection and dissemination of information through other means.

UNEP's **Division of Environmental Law and Conventions (DELIC)** works to strengthen the implementation of multilateral environmental agreements (MEAs) through promoting improved compliance with and enforcement of MEAs (taking into account the autonomous decision making authority of the Conferences of Parties of MEAs).

DELIC supports MEA implementation through the enhancement of synergies and inter-linkages and the development of partnerships among the MEAs, scientific bodies, global, regional and national stakeholders, and UNEP. (Note: see above about the role of citizens' complaints in MEA implementation.)

DELIC helps to strengthen capacity in developing countries and countries with economies in transition so they can comply with the provisions of the MEAs in a synergistic manner, and it supports the application of scientific knowledge for environmental protection through technical research, partnership building and the joint implementation of programmes with MEA stakeholders.

Within DELIC, the Environmental Law Branch carries out UNEP's environmental law programme, together with other UNEP offices and UNEP's partners. Specifically, its functions cover the areas of technical legal assistance, international legal instruments, and legal development and information (Programme of work/Activities).

UNEP also administers the Secretariats of the following MEAs:

Biodiversity Cluster:

- Convention on Biological Diversity (CBD)
- Cartagena Protocol on Biosafety
- Bonn Convention on Migratory Species (CMS) and related African-Eurasian Migratory Water Bird Agreement (AEWA), Agreement on the Conservation of Populations of European Bats (EUROBATS) and Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas (ASCOBANS) Conventions
- Convention on International Trade in Endangered Species (CITES)

Chemicals and Hazardous Wastes Cluster:

- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal
- Stockholm Convention on Persistent Organic Pollutants (POPs)
- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (PICs)
- Vienna Convention for the Protection of the Ozone Layer
- Montreal Protocol on Substances that Deplete the Ozone Layer

II.1.3. Commission on Sustainable Development (CSD)

The CSD was established by the GA in December 1992 to ensure effective follow-up of United Nations Conference on Environment and Development (UNCED).

The CSD as functional commission of the ECOSOC is subjected to its general supervision and composed of 53 members elected from among the Member States and the members of the specialized agencies by the ECOSOC for a term of office of three years.

The CSD is the high-level forum for sustainable development within the United Nations system. Its main role is the effective ensuring of the follow up of the Conference of Rio 1992 (the Conference) and the enhancement of the international cooperation and the intergovernmental decision-making capacity for the integration of environment and development issues.

CSD has opened its sessions to broad participation from both governmental and non-governmental actors, and it supports a number of innovative activities, such as the Partnerships Fair, the Learning Centre and a series of panels, roundtables and side events. The High-level segment features dialogue amongst Ministers also holds a special dialogue session with Major Groups. (Note: a new independent monitoring body in the UN system could significantly contribute to these networking activities, first of all through its complaint handling and feedback services.)

The Commission is responsible for:

- reviewing the progress of the implementation of Agenda 21 and the Rio Declaration,

- providing policy guidance to follow up the Johannesburg Plan of Implementation (JPOI) at the local, national, regional and international levels.

The commission has the following functions:

- monitoring progress in the implementation of Agenda 21 and activities related to the integration of environmental and developmental goals, through analysis and evaluation of reports from all relevant UN organs, organizations, programmes and institutions dealing with various issues of environment and development;
- considering information provided by governments regarding the activities they undertake to implement Agenda 21, as well as the problems they face, such as problems related to financial resources and technology transfer, furthermore other environment and development issues they find relevant;
- *Reviewing the progress in the implementation of the commitments set forth in Agenda 21* (note: the independent monitoring body of the UN, with the help of the citizens' complaints could significantly contribute to this review of implementation);
- Reviewing on a regular basis the adequacy of funding and other mechanisms, including efforts to reach the objectives agreed in Agenda 21
- *Analysing relevant input from competent NGOs, including the scientific and private sector in the context of the overall implementation of Agenda 21* (note: see the previous note);
- Providing appropriate recommendations to the GA through ECOSOC on the basis of integrated consideration of reports and issues related to the implementation of Agenda 21;
- Considering, at an appropriate time, the results of the review of all recommendations of the UNCED, to be conducted by the Secretary General, for capacity building programmes, information networks, task forces and other mechanisms to support the integration of the environment and development at regional and sub-regional levels;
- Preparing institutional arrangements to follow up the UNCED, as well as the recommendations and proposals contained therein;
- Endorsing the recommendations on international institutional arrangements to follow up the Conference.

The CSD meets annually in New York, in two-year cycles, with each cycle focusing on clusters of specific thematic and cross-sectoral issues, outlined in its new multi-year programme of work (2003-2017) (E/CN.17/2003/6).

II.1.4. Department of Economic and Social Affairs (DESA)

The DESA and its predecessors have helped countries around the world meet their economic, social and environmental challenges for more than 50 years.

DESA's mission - to promote development for all - reflects a fundamental concern for equity and equality in countries large and small, developed and developing.

Within the framework of the United Nations Development Agenda, DESA works on issues ranging from poverty reduction, population, gender equality and indigenous rights to macroeconomic policy, development finance, public sector innovation, forest policy, climate change and sustainable development. The Department also supports the effort to achieve the Millennium Development Goals, a set of time-bound targets, which put the eradication of poverty at the centre of the global partnership for development.

At the United Nations, DESA provides the substantive support to intergovernmental processes on development issues in the GA and in the ECOSOC, its functional commissions and expert bodies.

DESA engages with a variety of stakeholders around the world, including non-governmental organizations, civil society, the private sector, research and academic organizations and intergovernmental organizations, as well as its partner organizations in the United Nations system.

The DESA

- Analyzes, generates and compiles a wide range of data and information on development issues;
- Brings together the international community to address economic and social challenges at conferences and summits;
- Supports the formulation of development policies, global standards and norms;
- *Monitors and supports the implementation of international agreements* (note: handling citizens' complaints by an independent body in the UN system could endorse this task);
- Assists states to address their development challenges through engaging in a variety of capacity development initiatives.

DESA has 9 Divisions¹ each of which performs a critical function in promoting development, together with the Capacity Development Office. DESA also collaborates closely with its partners at regional and national levels in helping countries to formulate and implement national development strategies.

One of these divisions is the Division for Sustainable Development (DSD) which provides leadership and is an authoritative source of expertise within the United Nations system on sustainable development.

It promotes sustainable development as the substantive secretariat to the CSD through technical cooperation and capacity building at international, regional and national levels. The context for the Division's work is the implementation of Agenda 21, the Johannesburg Plan of Implementation and the Barbados Programme of Action for Sustainable Development of Small Island Developing States.

Priority activities for the DSD are to:

- Facilitate intergovernmental negotiations, consensus-building and decision-making through the provision of substantive support to the work of the CSD and other related bodies;
- Provide technical assistance, expert advice and capacity building to support developing countries and countries with economies in transition in their efforts to achieve sustainable development;
- *Facilitate inter-agency and inter-organizational cooperation, exchange and share of information, and catalyze joint activities and partnerships within the United Nations system and with other international organizations, governments and civil society groups in support of sustainable development* (note: the inherent networking activities of a new independent monitoring body could significantly contribute to this task);
- *Promote and facilitate monitoring and evaluation of, and reporting on, the implementation of sustainable development at the national, regional and international levels* (note: complaint handling could be a great independent resource to such monitoring and evaluation activities);
- Undertake in-depth strategic analyses to provide policy advice to the USG/DESA, UN system and intergovernmental focusing on cross-cutting and emerging sustainable development issues;
- Integrate the social, economic and environmental dimensions of sustainable development in policy-making at international, regional and national levels.

¹ The divisions are the following: Population, Forest, Social Policy and Development, Development Policy and Analysis, Sustainable Development, Public Administration and Development Management, Statistics, Financing for Development, ECOSOC support and Coordination

II.1.5. United Nations Economic Commission for Europe (UNECE)

Another intergovernmental organisation under the aegis of the UN is UNECE which is subjected to the ECOSOC as its regional commission. The UNECE was set up in 1947 by ECOSOC and is one of the five regional commissions of the UN.

Its major aim is to promote pan-European economic integration. To do so, UNECE brings together 56 countries located in the European region, including non-EU Western and Eastern European, South-East European and Commonwealth of Independent States (CIS) and North American ones, too. However, all interested UN member States may participate in its work. Over 70 international professional organizations and other non-governmental organizations take part in UNECE activities. The area of expertise of the UNECE covers such sectors as: economic cooperation and integration, energy, environment, housing and land management, gender, population, statistics, timber, trade, and transport.

The broad aim of UNECE's environmental activities is to safeguard the environment and human health, and to promote sustainable development in its member countries in line with Agenda 21.

All these countries dialogue and cooperate in economic and sectoral issues to promote sustainable development through:

- Providing analysis, policy advice and assistance to governments;
- Giving focus to the United Nations global mandates in the economic field, in cooperation with other global players and key stakeholders, notably the business community;
- Setting out norms, standards and conventions to facilitate international cooperation within and outside the region;
- Exchange and application of best practices as well as economic and technical expertise;
- Technical cooperation for countries with economies in transition;
- Regional implementation of outcomes of global UN Conferences and Summits. Its terms of reference have been defined by ECOSOC;
- *Assessment of individual countries' efforts to decrease pollution levels and to manage their natural resources, and making recommendations to improve their environmental performance* (note: complaints and NGO networking of a new monitoring body within the UN system could be a great contribution to the success of this activity of UNECE);
- Making recommendations on any matter within its competence directly to its member Governments, Governments admitted in a consultative capacity and the specialized agencies concerned. The Commission shall submit for ECOSOC's prior consideration any of its proposals for activities that would have important effects on the economy of the world as a whole.

The UNECE's Committee on Environmental Policy brings together governments to formulate environmental policy and support its implementation by organizing seminars, workshops and advisory missions and providing a forum for sharing experiences and good practices.

UNECE also takes a very active role in certain regional and cross-sectoral processes, especially:

- Environment for Europe ministerial process (see the details below),
- Environment, transport and health,
- Education for Sustainable Development.

"Environment for Europe" process is a unique partnership of member States within the UNECE region, organizations of the United Nations system represented in the region, other intergovernmental organizations, regional environment centres, non-governmental organizations, the private sector and other major groups. The "Environment for Europe" process and its Ministerial Conferences provide a high-level platform for stakeholders to discuss, decide and join

efforts in addressing environmental priorities across the 56 countries of the UNECE region. At the same time, the process focuses on helping countries of Eastern Europe, Caucasus and Central Asia and of South-Eastern Europe to raise their environmental standards towards a common regional standard.

Regarding the environmental activity within the UNECE the Working Group on Environmental Monitoring and Assessment has to be mentioned which was established in 2000 to serve as an instrument for UNECE Member States to:

- Provide recommendations;
- Propose action plans; and
- *Improve the coordination of international initiatives in environmental monitoring, assessment and reporting* (note: local community and NGO inputs channelled through the new monitoring body could support this activity).

The UNECE shall invite any Member of the United Nations not being a member of the Commission to participate in a consultative capacity in its consideration of any matter of particular concern to that non-member. The UNECE shall invite representatives of specialized agencies and may invite representatives of any intergovernmental organizations to participate in a consultative capacity in its consideration of any matter of particular concern to that agency or organization, following the practices of the ECOSOC.

UNECE submits to ECOSOC a full report on its activities and plans, including those of any subsidiary bodies, once a year, and shall make interim reports at each regular session of the ECOSOC. The ECOSOC – from time to time – makes special review of the work of UNECE.

II.1.6. Office of the High Commissioner for Human Rights (OHCHR)

At the World Conference on Human Rights in 1993, the GA decided to establish a human rights mandate by the Resolution 48/141 with strong institutional support. The OHCHR is a part of the SG and its activity is guided by this resolution, and the Charter of the United Nations, the Universal Declaration of Human Rights and subsequent human rights instruments, the Vienna Declaration and Programme of Action the 1993 World Conference on Human Rights, and the 2005 World Summit Outcome Document.

Operationally, OHCHR works with governments, legislatures, courts, national institutions, civil society, regional and international organizations, and the United Nations system to develop and strengthen capacity, particularly at the national level, for the protection of human rights in accordance with international norms.

The OHCHR spearheads the United Nations' human rights efforts and offers leadership, work objectively, educate and *takes action to empower individuals and assists States in upholding human rights* (note: such activities printed in italics in this and the previous paragraph would be vital in the field of environmental protection, too).

The OHCHR's priorities are set out in two key strategic documents: the OHCHR Plan of Action and its Strategic Management Plan 2010-2011. The OHCHR

- Supports the work of the United Nations human rights mechanisms;
- Secures the respect for all human rights;
- *Promotes international cooperation to protect human rights;*
- *Coordinates related activities throughout the United Nations, leads efforts to integrate a human rights approach within all work carried out by United Nations agencies;*
- Strengthens and streamlines the United Nations system in the field of human rights;

- *Ensures the enforcement of universally recognized human rights norms* (note: the activities in the present and previous bullet points would be vital in the field of environmental protection, too);
- Promotes both the universal ratification and implementation of the major human rights treaties and respect for the rule of law;
- *Prevents human rights violations;*
- *Receives and considers direct complaints* from victims of human rights violations, and appeal to governments on behalf of victims (note: as above);
- Protects all human rights for all people;
- *Helps empower people to enforce their rights; and assists those responsible for upholding such rights in ensuring that they are implemented;*
- *Monitors human rights situations on the ground, and implements projects (such as technical trainings and support in the areas of administration of justice, legislative reform, human rights treaty ratification, and human rights education, designed in cooperation with member states)* (note: as above);
- Supports the work of special procedures – including special rapporteurs, independent experts, and working groups – appointed by the Council to monitor human rights in different countries or in relation to specific issues.

In carrying out its mission – regarding the implementation – OHCHR:

- *Gives priority to addressing the most pressing human rights violations, both acute and chronic, particularly those that put life in imminent peril;*
- *Focuses attention on those who are at risk and vulnerable on multiple fronts* (note: such functions would be highly desirable in the environmental field, too – these activities would highlight the interrelationship between environmental rights, future generations' interests and the protection of other human rights);
- Pays equal attention to the realization of civil, cultural, economic, political, and social rights, including the right to development; and
- Measures the impact of its work through the substantive benefit that is accrued, through it, to individuals around the world.

II.2. A survey of similar environmental activities within the organisation of the UN

Duties that are common within the UNEP, CSD, DESA (DSD), UNECE and OHCHR are listed below. Some of these parallel tasks could be solved mostly by a single new body, HCFG – these items are typed in *italics*.

1. The broad aim of all these organisations is to safeguard the status of the environment and to promote sustainable development;
2. All these bodies analyze, generate and compile a wide range of data and information on environmental and development issues;
3. They also promote expert advice and transfer of environmental information;
4. *According to their mandates, they have to develop environmental policies or to support their development and monitor their implementation as well;*
5. *Regarding the international legislation process, all these bodies help to develop international legal instruments and support their implementation as well* (CSD deals especially with the implementation of Agenda 21 and Rio declaration, through providing policy guidance to follow up the Johannesburg plan of implementation, as well as by ensuring the implementation of the results of the Rio Conference);
6. *They promote and facilitate monitoring and evaluation of, and reporting on the implementation of environmental matters and sustainable development related issues at the national, regional and international levels;*

7. They also promote the widespread participation of governmental and non-governmental actors in the process of developing legal instruments;
8. They provide analysis and evaluation of reports from all relevant actors, organisations and try to facilitate the intergovernmental, inter-organisational processes, cooperation, consensus-building and decision-making;
9. They also play a crucial role in facilitating the technical assistance to governments, and the exchange of information at the national and international level;
10. All of them strive to improve the coordination of international initiatives in environmental monitoring, assessment and reporting within the UN system.

Notwithstanding the numerous similar tasks, we have to see the basic differences, too, which might result in quite different performance of the seemingly identical tasks. The major difference is that UNEP's mandate covers only the protection of the environment as opposed to the CSD, DESA and UNECE, which deal with all the three pillars of sustainable development, while on the other hand, UNEP deals with environmental issues in more details, up to the very technical, operative tasks, too. HCFG's networking activity could help in bridging these differences, while certain tasks should be solely commissioned to this new institution.

III. Analysis

III.1 About the possibility for the establishment of a High Commissioner for the Environment

As stated above, there are several commissions, programs, divisions which – under the aegis of the UN system – are entrusted with environmental issues or are otherwise relevant for our examination of the possibility of creating a new independent environmental monitoring body within the UN. We have more than 4 organisations dealing with more or less the same environmental or sustainable development issues from different aspects and with different methodology. All of these organisations - amongst their other tasks - are responsible for supervising the implementation of environmental treaties and for networking with professional and NGO communities (see detailed below).

That is why the global management of environmental challenges by the UN system and by other international organisations (such as the European Union and the Council of Europe) has become more complicated and less effective. Even if a significant streamlining could result in loss of certain initiatives and creative energy, a certain level of unification, reorganisation might be quite reasonable.

Apart from its possible substantial functions, in favour of global environmental protection, the establishment of a High Commissioner for Future Generations/Environment with such responsibilities (partly transposed from the analysed bodies) could be able to solve the coherency-problems within the UN's environmental and developmental system, and could be one of the solutions to rationalise the UN's work.

III.2 The suggested new global environmental governance institution

The High Commissioner for Future Generations/Environment (HCFG), as the voice of the environment or as the environmental conscience of the UN should be individually responsible for the control of legislation and of national implementation in harmony with the historical ombudsman functions, such as "parliamentary advocacy" and "complaint officer". In other words, HCFG, similarly to the national level ombudspersons seeks and analyzes system faults on global

level, i.e. situations where even the normal, regular flow of activities results in significant infringement of the interests of the environment and of future generations.

The HCFG should be subjected to the Secretariat General and should receive complaints from citizens and NGOs about failures in implementation of the basic principles of international environmental law and about actual violations of international environmental treaties. After the examination of a particular complaint, HCFG shall give recommendation to the Member State concerned. Moreover if the HCFG notices a gap in the global, and in certain cases national environmental legal systems or governance, it shall give a recommendation to the respective legislator itself. All recommendations have to be answered.

In case of necessity, HCFG might also contact the secretariats of the relevant international multilateral environmental agreements (MEAs), or various level UN bodies with the request for guidance and assistance in solving the environmental/FG conflicts at hand.

As a third branch of activities HCFG should run systematic networking activities, work with governments, legislators, courts, national institutions, civil society, regional and international organizations, as well as the United Nations system, to develop and strengthen their capacity, particularly on the national level, for the protection of the environment in accordance with international norms.

By rationalising the present UN bodies dealing with environmental and developmental issues, and by the transfer of some of their competences, the potential main responsibilities and tasks of HCFG could include several items from the following (initially) very broad list:

1. Safeguarding everyone's right to healthy environment (a basic identical mandate of each institution concerned);

(The overlapping responsibilities are typed in *italics*.)

UNEP:

2. Coordination of the development of environmental policy consensus
3. *Promotion of international cooperation in the field of the environment*
4. Analysis, generation and compilation of a wide range of data and information on developmental issues
5. Monitoring the status of the environment
6. Recommendation of appropriate policies
7. *Facilitation of the coordination of UN activities concerning environmental issues*
8. Providing expert advice on the development and use of environmental concepts and instruments
9. Assistance of Governments, particularly of those of developing countries and countries with economies in transition, in the development of international legal instruments in the field of the environment
10. *Encouraging international action to address gaps and weaknesses in existing international environmental law and*
11. Development and promotion of soft law instruments, such as codes of conduct and guidelines
12. Prevention of environmental threats

CSD:

13. Promotion of the universal ratification and implementation of the major environmental and developmental treaties, and enforcement of the law
14. *Monitoring progress in the implementation* of Agenda 21, and activities related to the integration of environmental and developmental goals through analysis and evaluation of

15. Analysing relevant input from competent NGOs, including the scientific and private sector in the context of the overall implementation of Agenda 21

DESA:

- 16. Supporting the UN's work regarding its environmental mechanisms*
- 17. Strengthening and streamlining the United Nations' system, and its effort in the field of the environment and sustainable development.*
- 18. Ensuring, through cooperation, liaison and participation, that UN's activities take environmental considerations into account, and that other UN bodies integrate environmental and developmental goals into their operation, through analysis and evaluation of reports from all relevant organs, organizations, programmes and institutions of UN*
- 19. Monitoring the progress in the implementation of policies, legal instruments and activities related to environmental protection and sustainable development*
- 20. Analysis of relevant input from competent NGOs including the scientific and private sector in the context of the overall implementation of environmental and sectoral international legal instruments*
- 21. Engagement and cooperation with a variety of stakeholders around the world, including non-governmental organizations, civil society, the private sector, research and academic organizations and intergovernmental organizations, as well as their partner organizations in the United Nations system.*
- 22. Bringing together the international community to address economic and social challenges at conferences and summits*
- 23. Facilitation of intergovernmental negotiations, consensus-building and decision-making*
- 24. Providing technical assistance, expert advice and capacity building to support developing countries and countries with economies in transition*
- 25. Facilitation of inter-agency and inter-organizational cooperation, exchange and share of information, and catalyzing joint activities and partnerships within the United Nations system and with other international organizations, governments and civil society groups in support of sustainable development;*
- 26. Promotion and facilitation, moreover evaluation of the implementation of sustainable development at the national, regional and international levels;*

UNECE:

- 27. Assessment of individual countries' efforts to decrease pollution levels, and to manage their natural resources, and making recommendations to improve their environmental performance*
- 28. Making recommendations on any matter within its competence directly to its member Governments, Governments admitted in a consultative capacity and the specialized agencies concerned*
- 29. Improvement of coordination of international initiatives in environmental monitoring, assessment and reporting*

OHCHR with an environmental formulation:

- 30. Promotion of the international cooperation regarding the protection of the environment*
- 31. Coordination of UN's activities and leading of efforts to integrate environmental and developmental approach*
- 32. Strengthening and streamlining the United Nations' effort and system in the field of the environment and sustainable development*
- 33. Ensuring universal recognition of environmental norms*
- 34. Prevention of environmental violations*

35. Recommendations on any matter within its competence directly to its member Governments, Governments admitted in a consultative capacity and the specialized agencies concerned
36. Investigation of direct complaints from victims of environmental violations, and appeals to governments on behalf of victims
37. Support of the work of special procedures – including special rapporteurs, independent experts, and working groups – appointed by ECOSOC to monitor the environment in different countries or in relation to specific issues
38. Giving priority to addressing the most pressing environmental violations
39. Focused attention on those who are at risk and vulnerable on multiple fronts
40. Measurement of the impact of its work through the substantive benefit that is accrued, through it, to individuals around the world

Naturally, only a few of these 40 types of responsibilities could be included in the job description of HCFG. However, HCFG might play an important networking role in connection with almost all of these tasks of the key UN environmental organisations. This new function of HCFG could further enhance the effective communication of these organisations and the coordination of their work within a real efficient environmental network.

III.3 Further steps:

In sum, within the frames of Rio+20 procedure, one of the possible further steps for establishing a more effective global environmental governance could be the re-examination and redistribution of the powers of the existing environmental bodies of UN and the establishment of the Office of the High Commissioner for Future Generations/Environment within the UN system which could be directly subjected to the supervision of the Secretariat General.

WFC and other international civic and scientific organisations should discuss and further elaborate these ideas. Based on a general agreement from NGO and as far as possible from scientific side, a campaign should be started to gauge the attitude of the governments, international organisations and the concerned UN bodies themselves. Arguments such as streamlining the environmental institutional structure of UN, making it more effective and cheaper, introducing a certain “balance of power” with an addition of an independent monitoring body to the existing “parliamentary” and “governmental” bodies, might be cautiously tested.

In addition to these actions, there will be an important topic for further analyses and studies: arguments could be raised that institutional representation of future generations might not be first realised on national level, while an international agreement at the Rio+20 conference might be within reach. National level economic and social policies might be easily in structural conflict with such a new, strong and consequential institutional representation of future generations and environmental interests. The history of the New Jersey Environmental Chief Prosecutor in the early nineties, the Israeli Parliamentary Commission for Future Generations in the beginning of the first decade of the new millennium and also the Hungarian Ombudsman for Future Generations in the last couple of years could be mentioned as evidences of this conflict and its typical solution (elimination of the “disturbing” structural element). It might be a reasonable experimental thesis of this study that such modern institutional developments in several countries could have been saved with the example and support of a similar UN level institution, furthermore the existence of HCFG would promote the idea in several countries pretty soon.