



A Sustainable
Development Council:
A better Rio+20 outcome
than reforming ECOSOC?

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ABOUT SDG2012

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
- **Sustainable Development Governance 2012 Network (SDG2012 Network)** – co-ordinating a multi-stakeholder network of experts to produce and peer review think pieces, discuss and exchange on issues relating to the institutional framework for sustainable development, and align with policy positions where appropriate
- **Information and Resources** – publishing informative guides and briefings and hosting an online clearing-house of information and updates on international environmental and sustainable development governance – 'SDG dossier'
- **Submissions** – making official submissions to the Rio+20 process based on think pieces and dialogue.

ABOUT STAKEHOLDER FORUM

Stakeholder Forum is an international organisation working to advance sustainable development and promote stakeholder democracy at a global level. Our work aims to enhance open, accountable and participatory international decision-making on sustainable development.

Stakeholder Forum works across four key areas: Global Policy and Advocacy; Stakeholder Engagement; Media and Communications; and Capacity Building. Our SDG2012 programme sits within our work on Global Policy and Advocacy.

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If you would like to provide feedback on this paper, get involved in Stakeholder Forum's SDG2012 programme, or put yourself forward to write a paper, please contact Farooq Ullah, Head of Policy and Advocacy at Stakeholder Forum – fullah@stakeholderforum.org

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INTRODUCTION

*“Good governance at the local, national and international levels is perhaps the single most important factor in promoting development and advancing the cause of peace”,
(Koffee Annan, former Secretary General of the UN)*

The issue of governance has become increasingly prominent at all levels over recent years - in many ways the achievement of good governance has become *the* major focus of international development, equal to and in some cases surpassing more specific concerns around democracy and human rights. Whilst this focus on governance has been welcome, it has presented some challenges in terms of defining what ‘good governance’ looks like – indeed, discussions around governance invariably become heated when the seemingly unobtrusive prefix ‘good’ is added as a qualifier.

There is general consensus that, whilst governance structures and processes may reflect the overriding political realities of any given context, equally systems of governance must be aspirational, forward-looking and operational, as well as adhering to a normative framework that encompasses the best qualities of democracy. As such, concepts such as participation, transparency and accountability must be at the heart of good governance.

However, with a broader acceptance of certain principles or concepts, come further development of these, or criticism, objections and substitutions. The engagement of stakeholders is an illustrative example. A stakeholder can broadly be defined as an actor with a stake in the decision-making process. Yet many claim that this word obscures power dynamics attached to levels of participation, and fails to take necessary account of the contextual power of different actors – can a multinational company be considered an ‘equal stakeholder’ alongside an NGO representing marginalised people, given the vast disparities in their existing levels of influence? Furthermore, in the case of the UNCSG there are 9 ‘Major Groups’ of civil society, though many find that this is reductionist approach that is not inclusive enough. Many have also raised questions around the effectiveness of engagement and consultation in the pursuit of ‘good governance’, whether it represents genuine collective decision-making, or is more often used as ‘window-dressing’.

Clearly there are a number of questions around what constitutes good governance, and this paper will not attempt to arrive at an all-inclusive definition on governance. Rather it will set the stage for a discussion that will explore some of the many ways in which governance is used in connection with sustainable development. It is the explicit hope that the document will inspire a range of actors to engage with the debate on international sustainable development governance, to further develop the concept, broaden its usefulness and strengthen its operability.

INTERNATIONAL SUSTAINABLE DEVELOPMENT GOVERNANCE AS AN EVOLVING AGENDA

Some 25 years ago, in 1987, the UN placed a new concept formally on the international agenda: sustainable development. The concept has been ridiculed, criticised, charged with being scientifically unacceptable and politically misconstrued, but has had a significant and lasting impact on the global development agenda. Yet concepts often remain concepts in search of application, and to guide such applications governance systems are needed at all levels.

There exists a dense network of institutions and instruments related to sustainable development at the international, regional, national and local levels. The UN Conference on Environment and Development (UNCED) or Rio 'Earth Summit' in 1992 marked the culmination of a fertile period in the development of institutions responding to concerns about sustainable development. UNCED saw the adoption of a number of crucial agreements, including the Rio Declaration, Agenda 21, and three framework conventions. It also created new international institutions, among them the Commission for Sustainable Development (CSD), tasked with the follow-up to UNCED.

What was later to be known as International Sustainable Development Governance was given an increasingly larger space on international agendas through the World Summit on Sustainable Development (WSSD) in Johannesburg, South Africa, in 2002. The Johannesburg Plan of Implementation, the outcome document from the WSSD, stated in paragraph 157 that:

"Strengthening of the international institutional framework for sustainable development is an evolutionary process. It is necessary to keep relevant arrangements under review; identify gaps; eliminate duplication of functions; and continue to strive for greater integration, efficiency and coordination of the economic, social and environmental dimensions of sustainable development aiming at the implementation of Agenda 21."

The rise in social and economic interconnectedness (globalization), the failure to make adequate progress in eradicating poverty, and the impacts of global environmental change are some of the key drivers behind demands for strengthening the institutional framework for sustainable development. An effective and equitable framework would contribute to ensuring adequate global progress in the social, economic and environmental dimensions, through creating institutions and governance arrangements that advance an integrated approach to strategy formulation and policy-making.

DEFINITIONS OF SUSTAINABLE DEVELOPMENT GOVERNANCE

There is no common and understood agreement on how to define governance, good governance or international sustainable development governance, though a number of processes and institutions have provided helpful suggestions.

- **Good Governance**

Even though no unit or institution can claim ownership of the 'ultimate definition' of governance, several efforts have been made to define the concept. UN DESA writes in one of their observations that:

"The term governance refers to the process or method by which society is governed, or the 'condition of ordered rule'. It reflects the structures and processes of regionalization and decentralization, which have tended to build on previously informal interactions between government and other actors."

The European Union defines principles of good governance by stating that the following elements are crucial to a complete understanding of 'governance':

"openness, participation, accountability, effectiveness and coherence (2001)."

These principles are echoed by the World Bank (2001), which operates a set of aggregate governance indicators based on:

- Access to voice and accountability;
- Lack of political instability and violence;
- Minimum government effectiveness;
- Existing regulatory burden, the rule of law, and concrete and visible efforts to eliminate graft (bribery and corrupt measures)

- **Sustainable Development Strategies**

The Commission for Sustainable Development (CSD) has attempted to advance a common understanding of sustainable development governance through discussing sustainable development strategies. CSD states that:

"A sustainable development strategy is defined as a coordinated, participatory and iterative (repeating) process of thoughts and actions to achieve economic, environmental and social objectives in a balanced and integrated manner at the national and local levels."

The definition is expanded and the following addition is found:

"A sustainable development strategy is a tool for informed decision-making that provides a framework for systematic thought across sectors and territory. It helps to institutionalize processes for consultation, negotiation, mediation and consensus building on priority societal issues where interests differ."

DESA made the following effort to define central components of the strategy:

- Over-arching politically inspired strategies.

- Long-term national vision.
- Strategies dealing with economic recovery and growth:
- Structural Adjustment Programmes (SAPs).
- Comprehensive Development Framework (CDF).
- Social/poverty reduction oriented strategies:
- Poverty Reduction Strategies.
- Strategies dealing with integrating environment/conservation into development:
- National Conservation Strategies (NCSs):
- National Environmental Action Plans (NEAPs):
- National Agenda 21:
- Sub-national and local strategies:
- Convention driven strategies.
- National Biodiversity Action Plans (NBAPs).
- National Action Programmes against Desertification (NAPs).
- The UN Framework Convention on Climate Change.

ANALYSIS OF PROGRESS, CHALLENGES AND OPPORTUNITIES RELATING TO INTERNATIONAL SUSTAINABLE DEVELOPMENT GOVERNANCE

• The Role of the WSSD

In many ways the Johannesburg Plan of Implementation (JPOI) from the WSSD represented progress in the area of the institutional framework for sustainable development. Chapter 10 of the JPOI on *'Institutional Frameworks for Sustainable Development'* deals exclusively with issues of governance, with commitments that support the enhancement of governance systems for sustainable development at all levels. This includes the identification of some broad commitments for institutional enhancement:

- Institutional strengthening and capacity building
- Integrated management and ecosystem approach
- Legal and regulatory frameworks
- Partnerships
- Coordination and cooperation
- Good Governance"

The JPOI also reiterated the principles of accountability and transparency several times, particularly in relation to key sectors, e.g. water, energy, finance and trade. At the national level the Plan states that good governance is essential and should be based on:

- Sound environmental, social and economic policies
- Democratic institutions responsive to the needs of the people
- The rule of law
- Anti-corruption measures
- Gender equality
- An enabling environment for investment (paragraph 4)"

Despite this, the JPOI did not commit strongly to take forward the Rio Principles, and references to human rights were few and far between. The JPOI also failed to address the issue of reconciling global interdependence with the national priorities of the sovereign nation state. In the wake of 2002 it was therefore widely recognised that further progress on global governance for sustainable development, with the necessary institutional framework, must be taken forward through the Commission for Sustainable Development (CSD)

- **Challenges relating to the Commission for Sustainable Development**

Despite the important role of the CSD in following up and enhancing commitments from Rio and Johannesburg, the conflict between the principle of national sovereignty and the demands of global interdependence have in many cases thwarted its progress.

Five years after WSSD, in 2007 CSD 15 resulted in an inconclusive outcome and was regarded by many as an intergovernmental negotiated disaster. CSD 14 and 15 dealt with energy for sustainable development, air pollution and atmosphere, climate change and industrial development. The united efforts of the coal and oil nations made sure the outcome document was rejected by the final plenary session of CSD 15, and part of their success was in manipulating the governance structure of CSD.

Stating that the proposed text at the end of CSD 15 fell short of expectations, the German Minister of Environment, speaking for the EU, stated that:

“Looking forward from here, we believe it is critical for us to find ways to ensure that we don’t arrive in this situation again, but to ensure that future CSD cycles will achieve a progressive outcome as is necessary for pursuing our common global goals of sustainable development. The EU remains convinced that global challenges can only be addressed through multilateral cooperation. The CSD has a mandate to be the High Level Commission on Sustainable Development within the UN system. Sustainable development is far too important to run the risk of a failure. We must improve the way decisions are made in this forum. The very relevance of this commission is at stake. We are convinced that we can work differently and ensure much more ambitious and progressive outcomes in future CSD cycles.”

Commenting on the outcome of the CSD11 process in 2003, the then Secretary General, Kofi Annan observed that he wanted CSD to be the watch-dog of sustainable development. The near disaster of CSD 15 nearly made naught of Anna’s hopes and aspirations for sustainable development. Several observers have stated that CSD suffered a long term defeat at CSD 15. Many countries started to downsize their commitment to CSD, the EU and the Nordics among them. Therefore, whereas 2007 and CSD 15 may be termed as the low point of the CSD process, now is the time to resurrect and rejuvenate this high level commission on sustainable development.

- **Civil Society Engagement from Stockholm to Rio+20**

The UN Charter recognises three major actors at the intergovernmental, multilateral level: nation states, international governmental organisations, and – according to paragraphs 71 of the UN Charter – non-governmental organisations, NGOs. The conference on the environment in Stockholm in 1972 was the first to recognize civil

society as a player at global summits. The Earth Summit in Rio and the World Summit in Johannesburg introduced important advances in the engagement of civil society in international decision-making on sustainable development.

The first Rio conference, UNCED in 1992, developed the concept of the nine Major Groups, and strongly recommended the UN to adopt this wider understanding of civil society and to incorporate and involve them wherever appropriate. UNCED at Rio in 1992 was preceded by the International Conference on Water and the Environment (ICWE) in Dublin, Ireland, (January 1992), reputedly the first global conference where representatives from governments, the UN system and NGOs agreed on a set of principles, which were subsequently sent to UNCED for further elaboration. The second global meeting of Habitat, Habitat II (1996), included NGOs in its formal drafting sessions, and the WSSD in Johannesburg (2002) was the most participatory summit with non-state actors in the same venue and interacting directly, rather than in parallel forums. Johannesburg also provided space for non-state actors to present critical comments on the Summit's outcomes at the plenary session.

Beyond WSSD, as negotiations at CSD 11 in 2003 ended, a set of modalities based on the Johannesburg Plan of Implementation (JPOI) had been developed by delegates and, despite some very close calls, appeared acceptable to the Major groups as well:

"The decision states that contributions to the CSD from Major Groups, including the scientific community and educators, should be further enhanced through measures such as:

- *strengthening Major Group participation in CSD activities, including through the interactive dialogue during the high level segment;*
- *making multi-stakeholder dialogues more action and implementation oriented;*
- *enhancing participation and effective involvement of civil society and other relevant stakeholders in implementation, as well as promoting transparency and broad public participation;*
- *striving for a better balance and better representation of Major Groups from all regions; and*
- *supporting active involvement in partnership-related and capacity-building activities at all levels, including the Partnership Fairs and Learning Centre."*

It seems therefore fitting that this tradition be developed and refined further at Rio+20. The UN General Assembly resolution on the UNCSD in paragraph 21 *'encourages the active participation of all major groups, as identified in Agenda 21 ... at all stages of the preparatory process..'* The Major Groups are directly referenced 8 times. Furthermore, this fact is reflected well in Chapter V of the Secretary General's Report on the upcoming UNCSD conference *'Building a multi-stakeholder movement towards Earth Summit 2012- Institutional Framework for Sustainable Development'*. Paragraph 70 of this report includes a specific bullet point on *'Mobilising Major Groups'*, by stating that:

"The CSD process is still recognised as the most interactive and inclusive process within the UN system, allowing for active civil society engagement."

It goes on to reiterate some of the merits of this integration, and the report points to the importance of the Major Groups active participation in implementing CSD decisions at national level through a reinvigoration of the National Sustainable Development Strategies (NSDS) and the National Councils on Sustainable Development (NCSD). This is listed in the report as one possible measure of a successful outcome from the Rio+20 Conference in 2012. The bullet point ends with the following statement: "*Thus, broadening the base of major groups' participation in the CSD process is considered important.*"

- **The Increasing Role of Local Governance**

Institutions at the local level are strong driving forces for national sustainable development strategies. For a strategy to succeed it should reflect the needs and aspirations of the local people and at the same time be fully backed by adequate commitment from the local level for its implementation. Indeed, it is the people at the local level who are the direct beneficiaries of the strategy process and real driving forces for forging integration, country-driven, multi-stakeholder 'ownership' and strong political commitment.

Local governance, barely discernible a decade ago, has become a reality. It is now the active inclusion of a wide range of public, private and voluntary sector actors in carrying out policy on the ground, for example, elected local authorities find themselves 'sharing the turf' with a whole range of bodies also exercising governmental powers at the local level. For many sub-national governments, the innovative nature of many of their partnerships and mobilization efforts is a direct response to the attempts to control the policy process by the national government. As Stoker (2000) puts it, the challenge is in 'achieving collective action in the realm of public affairs, in conditions where it is not possible to rest on recourse to the authority of the state'. Thus, paying too much attention to formal (national) governmental structures ignores the policy capacity that now exists for a range of actors – governmental and non-governmental – in developing sustainable development strategies.

SPECIFIC RECOMMENDATIONS ON STRENGTHENING THE INSTITUTIONAL FRAMEWORK FOR SUSTAINABLE DEVELOPMENT FOR RIO+20

- **Elevate CSD to a UN Council on Sustainable Development**

What was begun well at the last Rio Earth Summit in 1992 should be successfully continued at the next Rio+20 Conference 2012. CSD was established as a standing committee under ECOSOC in 1992, and this reflected the political weight, expert understanding and political priority of sustainable development of the 1990s.

It is arguably now the time to strengthen the institutional framework around sustainable development through 'upgrading' or 'elevating' the CSD. One way of doing this could be to elevate CSD from a standing committee under ECOSOC to a permanent UN Council under the General Assembly. By giving sustainable development a high political profile at the UN, this would undoubtedly reflect the gravity with which environmental and sustainable development problems are viewed by an increasingly vocal, concerned and informed segment of the global population.

The idea of a permanent body on sustainable development within the UN family is not new. Similar ideas were raised once by the Commission on Governance (1996), but this Commission suggested transforming the Trusteeship Council into a Sustainable Development Council. Lawyers and experts have been brooding over such a transformation within the UN, and some say it may entail opening a discussion on the UN Charter itself. That is neither a good nor a viable idea. But when the UN decided to establish the Human Rights Council, a precedent was created. It is important for advocates of reform to global sustainable development governance to capitalise on this opportunity, especially considering widespread governmental support for strengthening CSD, as articulated in many closing remarks at previous CSDs.

The 21st century has seen a number of sustainable development issues emerge, some on an unprecedented level. Some researchers and governments have talked about a paradigm shift in understanding, analysing and implementing solutions to address these issues. A robust new mechanism is needed and a Council for Sustainable Development would be well placed to address these new issues as well as having a responsibility for addressing implementation of previous agreements. A number of new issues are emerging under the label of environmental or sustainable development security issues, including economic, energy, food and water security.

- **Establishment of high level segment within ECOSOC**

To enhance implementation of Rio+20, JPOI and Agenda 21, the establishment of a high level segment within ECOSOC could be an effective way of monitoring implementation. The Council would meet as the present CSD, but the outcome decisions would need to be given a more serious political context - multilaterally and nationally - and this context would be within ECOSOC. A segment of the UN Annual Ministerial Review could also address Council outcomes.

- **Task Management and Interagency Coordination**

Having agreed on a permanent Council for addressing sustainable development at the global level, adjustments would need to be made within the UN itself. While looking into what functioned well, and what did not, in comparing the first phase of CSD – 1993 to 2002, and 2003 - until the present, Stakeholder Forum found that the UN system had several instruments or mechanisms to keep the ideas, thoughts and decisions made on sustainable development alive over the years. By strengthening the Council and sustainable development governance, some of these institutions might be revitalised but also modernised. One of these mechanisms is the Task Manager system.

The rest of the UN family seems to hold a low profile at most CSD sessions. To ensure the UN family was engaged in implementing Agenda 21, the UN Task Manager system was created in the 1990s. FAO was the task manager for agriculture, WHO for Health etc. The Task Manager system could be revitalised to hold relevant UN bodies accountable for sustainable development policies and programmes reflecting decisions taken at CSD.

From 1993 to 1998 the UN established the Interagency Committee on sustainable development set to coordinate the implementation of Agenda 21 throughout the UN system. This was closed down in 1998 under the UN Reform. Since then there has

been no interagency coordination on sustainable development. Another possibility of giving political weight to sustainable development issues would be to re-establish the IACSD, the Inter Agency Committee on Sustainable Development. This could be a subcommittee of the Chief Executive's Board, set up to represent the relevant UN bodies working on issues relevant to sustainable development.

Revisiting ideas that have already been formulated would also be worthwhile, for instance the recommendation by the UN High Level Panel on System Wide Coherence for the establishment of a Sustainable Development Board to oversee the 'One UN' country programmes. This idea was to establish a joint meeting of the executive boards of WFP, UNICEF, UNDP and UNIFEM, and adding UNEP and UN Habitat would most probably make the family complete.

- **Further enhancing the role of civil society**

Multi-stakeholder engagement of Major Groups will be critical in the preparations for Rio + 20 and in maximizing the likelihood of a successful outcome.

Lobbying for maximum space for civil society at CSD has been a major objective for all the nine Major Groups. Even though CSD 11 set the rules for process and procedure, modalities and rules of engagement for the Major Group community, this by no means ended the process debate at the conclusion of that CSD. The issue of allowing Major Groups space at CSD has re-emerged strongly during several CSDs, and the space that civil society has must be fought for and safeguarded.

The UN allows for serious and active participation of civil society in many high level units of the UN. In addition to CSD, UN OCHA and UNAIDS are good examples to look at. Granting civil society a proper and significant position within a possible Council on Sustainable Development in the future is important, and the standards for civil society participation should not be lowered below the level of present CSD participation, even if the process around sustainable development now is at Council level.

- **Sustainable Development Governance at the National, Regional and Local Level**

Policy decisions at an intergovernmental level easily come to naught if they are not placed in national contexts. And policy decisions made at intergovernmental level are often ignored by the people at large if they are perceived as irrelevant.

The institutional connections need to be made between the intergovernmental and national level. Again we find it relevant to look back at the first phase of CSD – 1993 to 2001. National councils on sustainable development were established, national hearings were held, hearings where civil society and governments played active roles, the outcome of which were reported back to CSD. This instrument does still exist, but has been downgraded and made irrelevant by a number of institutional decisions during the second phase of CSD. National reports are now made reluctantly, they are far and few between, and they are - more often than not - not the result of a participatory process. Establishing and developing NCSDs in all countries, (emphasis is on all countries) may be one way of rejuvenating policy, debate and implementation on sustainable development at national level.

To further prioritise the national level issues, regional meetings on sustainable development must be seen as an integrated element of a new institutional architecture. The RIMs today appear insignificant and their outcome not well integrated into the global process. The RIMs must be upgraded, be of the same calibre, and conducted on exactly the same template. If not they will continue to be irrelevant and seen by most delegates as a waste of time.

- **New Conventions and Treaties**

The upcoming Rio plus 20 would benefit in many ways in revisiting the 27 Rio Principles and try to ascertain the effect of these principles on sustainable development and environment policies. Stakeholder Forum with colleague organisations, ANPED and the SDIN group, Consumers International and the World Resources Institute, are exploring ways of upgrading a few of the principles which are deemed among the most important to take to a higher level on the international institutional architecture. These efforts are concentrated around:

- Principle 10 on access to information
- On the Precautionary Principle
- On issues related to CSR – corporate social responsibility

The idea would be to take these to Convention or Treaty level. However it would be politically unwise to expect Rio+20 to finalise negotiation on these Conventions. But rather there should be an agreement to initiate negotiations on a framework for each of these Conventions after Rio+20. The new Council for Sustainable Development would then be mandated to further develop these frameworks.

It would be difficult to have a global meeting on environmental issue without touching upon the energy/climate nexus. A lively discussion has been going on for some time on sustainable energy and where to place this issue within the UN family. Considerable opposition has been detected against having the IAEA as a host to this issue. Would IRENA, - International Renewable Energy Authority - be a possible mechanism to deal with this issue? If so, perhaps Rio plus 20 could start discussing this as another important element to be added to the intergovernmental institutional architecture on sustainable development.

- **Long-term and Resilient Changes**

We need to be forward-looking in our decisions and try to develop a system with relevance and resilience to be able to absorb the sustainable development challenges for the next 10 to 15 years.

Our challenges are:

- We need immediate actions with the understanding that we may not see immediate results.
- We need immediate capital and additional finance to pay for these actions, with no promise of immediate returns.
- We need simple understanding of complex problems.
- We need commitments to last for 30 years and more