

# **THE BEGINNING OF A NEW FUTURE – THE WORLD OF HLPF AND THE 2030 GLOBAL AGENDA ON SUSTAINABLE DEVELOPMENT**

**An independent study on HLPF undertaken for UNDESA**

**By**

**Jan-Gustav Strandenaes  
Independent Consultant  
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- This is an Agenda of unprecedented scope and significance. It is accepted by all countries and is applicable to all, taking into account different national realities, capacities and levels of development and respecting national policies and priorities. These are universal goals and targets which involve the entire world, developed and developing countries alike. They are integrated and indivisible and balance the three dimensions of sustainable development.<sup>1</sup>
- We reaffirm our unwavering commitment to achieving this Agenda and utilizing it to the full to transform our world for the better by 2030.<sup>2</sup>
- The high-level political forum is the culmination of a network of follow-up and review processes at the global level. Its thematic reviews of progress on the Sustainable Development Goals, including cross-cutting issues, will be supported by functional commissions of the Economic and Social Council and other intergovernmental bodies and forums (ref the 2030, Agenda, paragraph 85)<sup>3</sup>

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<sup>1</sup> (Paragraphs 5 the 2015 summit document: Transforming Our World: The 2030 Agenda For Sustainable Development)

<sup>2</sup> *Ibid*, para 91

<sup>3</sup> Para 11, A/70/684

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Bio of the author

Disclaimer: This paper does not represent any position, approach, analysis, conclusion or policy on behalf of UNDESA. The content and writing are all of that of the author, and any position found in the paper or mistake made are his sole responsibility.
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From the statement by Secretary General Ban Ki-moon given at the press conference held at the UN headquarters, August the 3<sup>rd</sup> 2015

“I have often said that the year 2015 must be time for global action.

Last night (August 2), Member States answered the call to action and made history by approving a bold, ambitious and transformative sustainable development agenda for the next 15 years.

This is truly a “We the Peoples” Agenda.

The outcome document is called “Transforming our World: The 2030 Agenda for Sustainable Development” — and it is a road map to ending global poverty, building a life of dignity for all and leaving no one behind. It is also a clarion call to intensify efforts to heal our planet for the benefit of this and future generations.

It greatly expands upon the success of the Millennium Development Goals. It contains 17 sustainable development goals which are integrated, interlinked and indivisible.

In many ways, these global goals represent a “to-do” list for people and the planet.

They are people-centred and planet-sensitive. They are universal — applying to all countries while recognizing different realities and capabilities.

They call for building peaceful, inclusive and well-governed societies with responsive institutions as the basis for shared prosperity. Fundamentally, they recognize that we cannot reach our development goals without addressing human rights and complex humanitarian issues at the same time.

They commit all of us to enhanced multilateral cooperation through a revitalized global partnership among nations and all the world’s citizens.

The SDGs and the new Global Agenda are a fitting tribute on the seventieth anniversary of the United Nations Charter.

They address the requirements for all humanity to be able to live decent lives free from poverty, hunger and inequality, with all men and women, girls and boys able to develop their full potential. They commit all of us to be responsible global citizens, caring for the less fortunate, as well as for our planet’s ecosystems and climate action on which all life depends.

We have a big, bold agenda before us — now we must work to make it real in people’s lives.

The effort started last month at the Third International Conference on Financing for Development in Addis Ababa.

It will be followed next month when world leaders will formally approve this 2030 Global Agenda for Sustainable Development here at the United Nations Summit.

It will continue at the Paris Climate Summit where world leaders have pledged to adopt an ambitious universal climate change agreement.

We can be the first generation that ends global poverty, and the last generation to prevent the worst impacts of global warming before it is too late.”

The international community took a major step towards achieving this shared goal with this weekend’s agreement. Now we must sustain that momentum.

Implementation and follow-up will be critical. We will need all partners to make this a success. The UN system is mobilizing to work as one for the bold and transformative steps that will be needed. We are ready to hit the ground running. We must continue until we reach our destination of a sustainable, peaceful and prosperous world for all humanity.

## Preface with a personal reflection and a disclaimer

The High Level Political Forum, HLPF, is a novelty in the UN family. It has been called many things, the UN Summit Document<sup>5</sup> states that it will have “the central role in overseeing follow-up and review at the global level.”<sup>6</sup> HLPF is a new construct and was adopted by the UN General Assembly on July 9, 2013 in resolution 67/290. Many have opinions about the HLPF, and at the outset these opinions varied a great deal. Some observers with a keen interest and knowledge of the UN and its history stated that no other resolution passed by the General Assembly in the 70 year existence of the UN has a more progressive content and the resolution created a progressive, transparent, participatory and accountable new construct in the UN family, the HLPF. Yet, at the same time the resolution has text that can be understood in various ways, and because of its nebulous character, the new construct is institutionally weak in certain ways. It has become a usual argument among delegations to say that “the HLPF is not a body”. It would be good to reflect on what defines a body. Evidently there are no real definitions on what constitutes a body (see also 1.8). Still, a discussion could be had on this issue. Would HLPF be implicitly recognised by all as a body, if a Bureau had been constituted to run its regular operations – as was the case with the Commission on Sustainable Development, CSD during its 20 year existence?

Three years have elapsed since the beginning of HLPF, and member states have added to the understanding of HLPF through several sessions resulting in new decisions and documents. The evolving 2030 Sustainable Development agenda has also increased considerably over these two years. The decision that the HLPF would replace ECOSOC AMR was made somewhat unexpectedly in the course of the negotiations and positioned the HLPF as the central platform for the SDGs follow-up. It is safe to say that HLPF today is very different from HLPF back in 2013. Such a development was anticipated, as a delegate confided in me. ‘When we negotiated the institutional architecture of sustainable development, we understood that the agenda would grow, and that we perhaps had begun the post Rio+20 Process in the wrong end by developing the institution that would be coordinating the agenda in the future. Because of this realisation, we created paragraph 29, which states that we all need to revisit and review the capacity of HLPF to see if the institution is adequate and up to its task. This should take place in 2018, and we actually anticipated a strengthening of HLPF, in terms of structure and procedure’.<sup>7</sup>

Interpreting texts is a delicate and often cumbersome undertaking. However, UN directives and decisions, which interpret and develop options, have evolved into a culture that aims to extract the best available permutation. Looking for the best, struggling to improve and fighting for the good is the philosophy embedded in the nature of the UN, which also aims to reflect the positive aspects of all cultures. The Rio+20 Outcome Document is permeated by this approach, and as topical foci are narrowed through negotiations, looking for the best possible option becomes the dominant discourse. And the text of paragraph 84 in the Rio+20 document directs negotiations to base the new high level political forum on the strength of past experiences.

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<sup>5</sup> “Transforming Our World: the 2030 Agenda for Sustainable Development”

<sup>6</sup> <https://sustainabledevelopment.un.org/content/documents/7891Transforming%20Our%20World.pdf> This is the reference at the moment, as this document awaits its formal acknowledgment to be had during the UN Summit, General Assembly, September 25-27, 2015. It will subsequently be given a formal GA reference

<sup>7</sup> During the research period of this paper, I spoke with several delegates who had been instrumental in creating the resolution and who were actively involved in negotiating the text. We spoke freely, but under one condition – that the principle of Chatham Rule was respected. This was agreed to, hence I am unable to reference any names, be that of person or country.

What follows is a paper about the HLPF, one of the main actors of the 2030 Sustainable Development agenda to create a world based precisely on sustainable development. This agenda is by far the most ambitious plan for the future of the planet that has ever been agreed to in the history of humanity. As a novelty in the world of intergovernmental systems it is an eminent example of what experienced and creative delegates with the support of an equally experienced and knowledgeable secretariat can accomplish in a collaborative atmosphere. The paper attempts to outline the development of HLPF, analyse many of its challenges, trace its institutional background, attempts to bring some clarity to formalistic issues, offers procedural and institutional ideas that could become solutions, references the new documents that have added considerably to its content, and documents that its construct rests solidly on the premise of the UN Charter.

The paper is an ‘outside view’ and does not represent a political position, it is neither of the UN secretariat nor of member states. I have however a long history with the UN, as an insider and as an outsider. My entire life I have worked with governance and the UN, sustainable development and the UN, development and the UN and environment and the UN – at headquarters and in the field.

I am grateful to the support I have received from UNDESA in particular from the brilliant, knowledgeable and forthcoming staff of UNDSO. I have met with competent and informative persons from the UNOLA, General Assembly and ECOSOC Affairs Division of the Department for General Assembly and Conference Management (DGACM) and I have spoken with a host of other people in the UN. I spoke at length with some more than others, asked questions, bothered them with details and tried their patience. I am also grateful to many, many delegates who offered me their time, in their mission offices and over coffees in the illustrious Vienna café.

The sources used in this paper are many, and they are all footnoted. The most important documents are however, first and foremost the HLPF resolution, 67/290. But I have also used extensively the Rio+20 Outcome Document, the Summit Document, the Addis Ababa Action Agenda, documents from the vast repository relating to the first Rio process, the JPOI and numerous key documents relating to ECOSOC, where 61/16 is but one.

One thing is certain – any mistake or misunderstandings are my responsibility, and mine alone, and proposals and conclusions are also my responsibilities. The content is also the result of being challenged to ‘think outside the box, in an independent manner, but base my thinking on UN history and the structure of formal decisions’ – not always an easy task to fulfil.

The 2030 agenda for Sustainable Development heralds a new beginning and a new path forward. Such an ambitious and transformative agenda requires an equally ambitious and transformative institutions to follow-up and review progress. Process and institutions support substance. Hence a strong and functional HLPF is needed to ensure success for the SDGs at global level.

In the end, we are all aware of that as long as the Westphalian system prevails in the intergovernmental world member states have the final say. Still the OWG proved beyond doubt that member states in collaboration succeeded in making a plan for a better tomorrow. Such collaboration is now needed to build a successful HLPF.

Oslo, Norway, 2015 - 2016  
Jan-Gustav Strandenaes

## **RESUME and SUMMARY**

The paper consists of four chapters with subchapters interspersed by nine text boxes and four annexes.

### **Chapter 1 “Introduction”**

This traces the development of HLPF from the date it was agreed to in 2013 until the time immediately before the September Sustainable Development Summit to decide on the new agenda named “Transforming Our World: the 2030 Agenda for Sustainable Development”. 1.1 sets the stage, 1.2 elaborates on the agenda of HLPF, but this is given ample space in 1.6 and 1.7. These sub-chapters outlines in some details all the tasks given HLPF over a two year period, a task that is considerably larger than the one anticipated back in 2013. 1.3 and 1.4 compares the evolvement of CSD and HLPF, and shows how they were constructed from opposite ends. 1.8 Discusses what a ‘body’ is, and that the concept actually has no definite definition within the UN system.

### **Chapter 2 asks a number of principled questions, tries out a few answers and is focussed on HLPF**

“What Kind Of Construct is the High Level Political Forum? This section attempts to give answers to this question, for there are several answers that might shed light on this novel construct. While 2.1 sets the stage, 2.2 merely states that to get the informative and constructive answers, you need to ask the relevant questions, and lists a number of key questions that this paper will discuss, whereas 2.3 brings into the HLPF-equation the question of accountability. 2.3, 2.4 and 2.5 focus on one of the key issues of the formal and hierarchical position of HLPF – is it a platform, a forum or a body? In 2.6 the discussion centres around the most recent designation of HLPF, given to it by the Summit Document, the HLPF will have a central role in dealing with the 2030 Sustainable Development agenda. Based on the many tasks to be performed by HLPF, the discussion leads the thinking towards the idea that HLPF is indeed a body, and that it has been given a decision making role. Box 1. This section also summarises all the HLPF tasks found in resolution 67/290 and Box 2 summarises all tasks given to HLPF in the Summit Document. 2.7 offers a conclusion to this conundrum and 2.8 and 2.9 points to formalities whereby it is formally possible to strengthen HLPF. 2.10 take a specific look at the resolution (67/290) which established HLPF and list the many elements that give strength to the argument that HLPF can be considered a body, 2.11 then tries to tackle what several member states labelled the ‘universality conundrum’, and suggest a steering committee could be established; 2.12 actually refers to a proposal by member states to include a bureau into the resolution, 2.13 examines the time issue related to the 5+3 days of the HLPF versus more time available to tackle the now large agenda and finally 2.14 takes a look at the secretariat needed to enable HLPF to perform.

### **Chapter 3 is all about ECOSOC and HLPF.**

The Economic and Social Council, ECOSOC, is second to the UN General Assembly the largest Charter Body of the UN. 3.0 sets the stage by describing this body; 3.1 deals with ECOSOC’s responsibility in the area of sustainable development, and while basing the arguments on resolution 61/16 focuses on the significant, but politically difficult task given ECOSOC in the sustainability equation – that of dealing with the economic dimension of sustainable development. Quoting paragraph 132 from the Addis Ababa Action Agenda in its entirety and outlining its many tasks, 3.2 then argues that overseeing the economic dimension of global politics was once a task intended for ECOSOC; 3.3 deepens this argument; 3.4

outlines the new responsibility for ECOSOC, and 3.5 argues for a strengthened ECOSOC the secretariat should be able to handle this new challenge.

#### **Chapter 4 is about the phrase: ‘under the auspices of’ and links this to the principle of subsidiarity.**

The Chapter makes the case that HLPF is established within the UN tradition of subsidiarity, based on well thought through arguments. As there has been a recurring discussion about the phrase ‘under the auspices of’ and the issue of subsidiarity, this chapter goes through the history of subsidiarity, and makes efforts to explain this from a legal and political point of view. 4.0 sets the stage, 4.1 and 4.2 takes brief look at the HLPF sessions in 2014 and 2015, and 4.3 makes an argument that the period from 2014 until 2016 has been designated as a pilot period; 4.4 and 4.5 dive into the formalities of the phrase ‘under the auspices of’ and whereas 4.5 also refers to the history of subsidiarity, 4.6, 4.7 and 4.8 all deepen these arguments, and relates them to the basic structural decisions made throughout the history of the UN and shows how this is based on basic principles elaborated on in the Charter. 4.9 and 4.10 also show how deeply entrenched into the decision making understanding of the UN the issue of subsidiarity is, and that should member states agree to supply HLPF with a bureau, this is consistent with this understanding; 4.10 and 4.11 also presents the issue of subsidiarity and its importance to the UN Security Council as well as provides scholarly arguments on the legality of the phrase ‘under the auspices of’ and on the principle of subsidiarity; Boxes 3 to 9 in this chapter further illustrates arguments made in this chapter.

## **I – INTRODUCTION**

### **1.1 - A unanimous UNGA consensus decision behind the HLPF**

Created by the delegates and their negotiations’ prowess at Rio+20 and signed by more than 100 state leaders at the Rio+20 Conference, the High Level Political Forum was given a substantial position in the outcome document from this conference. Under chapter iv of the Rio outcome document “Institutional framework for sustainable development” the issue of sustainable development is introduced and combined with the necessity of strengthening the institutional intergovernmental framework. A subtitle “Strengthening the three dimensions of sustainable development” captures the essence of the government deliberations and further deepens arguments on sustainable development. Admonishing the intergovernmental community to act, the document states: 79. “We emphasize the need for an improved and more effective institutional framework for sustainable development which should be guided by the specific functions required and mandates involved ...”

A logical conclusion stemming from these arguments is formulated under the subtitle “Strengthening intergovernmental arrangements for sustainable development” and in paragraphs 84 the agreement is made: “We decide to establish a universal, intergovernmental, high-level political forum ...”. Paragraphs 84, 85 and 86 further details the key element and challenges of this new institution.

The high level political forum on sustainable development, HLPF, is a novelty in the UN system. On July 9, 2013, during the morning session of its 91<sup>st</sup> Plenary Meeting, the United Nations General Assembly (UNGA), in resolution 67/290 formally adopted by consensus the format and the organizational aspects of the forum<sup>8</sup>. The resolution also recommended to the

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<sup>8</sup> A/RES/67/290



Economic and Social Council to close down the Commission on Sustainable Development, CSD, effective from the conclusion of its 20th and last session, to be held prior to the first meeting of the forum.

Closing down CSD after 20 years of hard work<sup>9</sup> took place during the last week of September in 2013 at the beginning of the 68<sup>th</sup> session of the UNGA, and HLPF was now slated to take over. It had taken the nations of the world over a year of negotiations to act on a mandate given them by the Rio+20 Summit in 2012. HLPF was now a fact. But what was HLPF going to do and what exactly was the HLPF?

With ten preambular and thirty operative paragraphs, the resolution on HLPF stakes out the contours and direction of the core platform in the global sustainable development institutional architecture and its ensuing policies, for the next fifteen years. Unless it should be subjected to serious revisions, this construct will heavily influence sustainable development policies until 2030 and possibly onwards as well, past perhaps a Rio Plus 40 (or Stockholm Plus 60, i.e. 2032). HLPF is also thought to be the most important intergovernmental mechanism in the follow-up to the Rio+20 Conference and the post-2015 development agenda. Several member states began early on to refer to it as the home of the Sustainable Development Goals, the SDGs.

The HLPF resolution reflects a compilation of experience, knowledge and process understanding of more than twenty years of sustainable development deliberations at the global level. Accordingly, virtually everything one needs to be concerned about is – at least potentially – in place. The HLPF has also been given a high level political position. According to resolution 67/290, HLPF shall be convened every four years under the auspices of the UN general Assembly at the Heads of State Level<sup>10</sup>.

Innovative and brave in its formulations, creative and challenging in its procedural positions, promising and transformational in its mandate, the HLPF resolution contains almost every element necessary to fulfil the promises and visions that the state leaders allowed for in the Rio+20 Outcome document from 2012.

It has been called a hybrid among UN constructs, it has been referred to as the home of the Sustainable Development Goals, some have named it the crucible of sustainable development at the UN and a construct that will modernise the UN, others have looked at it as yet another element adding to the growing bureaucracy of the UN, obstructing swift progress rather than laying a solid foundation guaranteeing the future we want.

During the Open Working Group (OWG) on the Post 2015 Development Agenda negotiations, HLPF came to be seen as central to the success of the Post 2015 Development Agenda, and delegates frequently began referring to it in the context of coordinating and reviewing the Sustainable Development Goals, the SDGs. In the final stages of the SDG negotiations during the spring and summer of 2015, then focussing on the Summit Declaration, HLPF was given different designations, and the word “Apex of the SDG processes” was used. And in the August 11, 2015 agreed consensus text it is finally referred to as having the central role in matters relating to the post 2015 development agenda, now labelled: “Transforming Our World: the 2030 Agenda for Sustainable Development.” Paragraph 47 of that document, states: “The High Level Political Forum under the auspices of

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<sup>9</sup> ECOSOC, indeed, decided in its decision E/2013/L.38 (final number still pending) to conclude the work of the Commission at its 20th session and to abolish it on 20 September 2013. In its decision E/2013/L.37, ECOSOC also approved of the agenda for the last session, which had the theme “Lessons learned from the Commission on Sustainable Development, and the way forward”

<sup>10</sup> Now expected to take place in 2019

the General Assembly and the Economic and Social Council will have the central role in overseeing follow-up and review at the global level.”<sup>11</sup>

As HLPF is given this role, it will contribute in a critical way to modernise the UN. What is at stake is implementation and capturing the sophistication and inclusiveness of the post-2015 negotiations. Consequently there is a need to understand what it is, how it will function, what its modus operandi will be – in other words, the question that needs to be asked and answered is simply: What exactly is the HLPF?

## **1.2 – HLPF with a growing agenda**

The language of the HLPF resolution<sup>12</sup> carries a strong political message. Because of that and its overarching responsibility to implement the Rio+20 Outcome Document and because it has been charged with the central role in relationship to “Transforming Our World: the 2030 Agenda for Sustainable Development”, - the document that contains all the SDGs and their 169 targets - HLPF has been given a gargantuan workload.

A rough count based on directions given in the 30 paragraphs (of 67/290) will reveal that HLPF must deal with ca 30 different tasks such as overseeing review sessions on progress and implementation and make sure this is well presented in the new flagship report of the UN, the Global Sustainable Development Report, GSDR. Added to these 30 tasks will be the 17 Sustainable Development Goals, the SDGs, their 169 targets, the thematic reviews, national reviews and reviews of major groups and others and numerous other chores listed in the Summit Declaration as well as important segments of the outcome document from the Third International Conference on Financing for Development<sup>13</sup> in Addis Ababa in July 2015.

An almost forgotten task levied on the UN by the Rio Outcome Document, are the 14 processes which were initiated in Rio. The SDGs and HLPF are but two of these processes. Because of this ambitious workload, several member states have observed that HLPF has been afforded weak institutional support, with unclear decision making powers, insufficient time to deal with the tasks and a diffuse and unclear decision-making authority, (for the detailed workload tasks according to the 30 paragraphs of 67/290, see Annex I.)

### **Box 1**

#### **The Rio+20 Summit agreed on 14 processes**

- ▣ **The green economy process**
- ▣ **The high level forum on SD**
- ▣ **Intergenerational solidarity, the ombudsperson for future generations**
- ▣ **Strengthening UNEP**
- ▣ **Integration of the three dimensions of SD**
- ▣ **Outcome of Delivering as One Process, strengthening operational activities**
- ▣ **Sustainable Energy for All (SG initiative)**

<sup>11</sup> <https://sustainabledevelopment.un.org/content/documents/7891Transforming%20Our%20World.pdf> This is the reference at the moment, as this document awaits its formal acknowledgment to be had during the UN Summit, General Assembly, September 25-27, 2015. It will subsequently be given a formal GA reference

<sup>12</sup> Various formal references will be used referring to HLPFs resolution 67/290; sometimes the HLPF resolution will be used, sometimes merely 67/290, or sometimes phrases such as “the GA resolution establishing HLPF”. In all such cases the correct reference is always: UN GA Res 67/290

<sup>13</sup> A/CONF.227/L.1 of July 15, 2015

- ▣ **GA process on the maritime jurisdiction beyond national boundaries, conservation and resource use of marine resources,**
- ▣ **Challenges facing small island developing states**
- ▣ **10-Year Programme on Sustainable Consumption and Production**
- ▣ **The Sustainable development goals – through to 2015**
- ▣ **Assessing financing needs for sustainable development**
- ▣ **Clean environmentally friendly easily adaptable and usable technologies**
- ▣ **The registry of commitments**

HLPF was in focus in May 2015. During the debates in the SDG week in May 2015 (May 18 – 22), several member states clearly stated the need to strengthen HLPF and a few wanted to add more days to the deliberations as well. Creative ideas were floated in Conference Room 4 without adding serious substance to them. Some of these aspirational ideas and creative suggestions have, however, been formulated and written up in the proposed 2015 GA Summit document.<sup>14</sup> It is also well to remember that several member states called for greater inclusiveness and transparency in the HLPF and 2030 Agenda during the HLPF 2015 conference. We shall return to these elements later in this document. What is worth bearing in mind with these new elements is that they have all augmented the HLPF agenda.

### **1.3 – First the agenda, then the institution – the case of CSD**

Without being nostalgic, a reference to the process around the establishment of CSD may be warranted, even if there are considerable differences between CSD and HLPF – not the least because there is a deeper understanding of the complexities at work within sustainable development today as compared to 1993, when CSD was formally established. But perhaps the most serious difference between the establishment of CSD and HLPF is this: CSD was established after member states had agreed on an agenda.

With the formal adoption of Agenda 21 in 1992, the first ever global agenda on sustainable development was agreed to by all UN member states in the world. With more than 40 chapters the agenda was the result of these member states' serious commitment to develop and build a sustainable future on earth. Based on a solid understanding of how large and ambitious the agenda was, the UN secretariat and the UN member states then sat down to develop a mandate and an operative plan for an institution that would be capable of handling such a large agenda; they furnished the new body with a mandate, they positioned it formally within the UN hierarchy, established that it would have formal outcomes and they made sure they furnished it with replete and necessary support mechanisms: among them were an elected Bureau, a well-resourced secretariat, ample time for the secretariat to prepare an agenda with background documents, ample time for delegations to negotiate issues of sustainable development, a time table and a road map into the future. And with this, CSD was established.

### **1.4 - First the institution, then the agenda – the case of HLPF**

The situation with HLPF has been the opposite; the institution was created at the same time when the process to develop the SDGs was launched and before the full scope of the agenda was identified, developed and completely understood. And as the complexity of sustainable development in the 21<sup>st</sup> Century revealed itself through the laborious negotiations that took

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<sup>14</sup> In an effort to make this document more readable, various wordings, such as here 'the proposed 2015 GA Summit document' - will be used in referring to the document that member states agreed on, August 11, 2015, the document which officially carries the name: "Transforming Our World: the 2030 Agenda for Sustainable Development"

place in the OWGs (2013 – 2014) and the enormity of creating the future we want in a participatory manner grew – as emphatically emphasised throughout the Rio+20 Outcome Document - member states with the support of the members of the global Non-Governmental Community (NGOs)<sup>15</sup> kept deepening, complementing and adding to the Post 2015 Development Agenda.

Pursuant to the adoption of the Rio+20 Outcome Document in 2012, the first order of the day in the follow-up process became the development of the institution to tackle the future of sustainable development issues. One of the key agenda points for the Rio+20 Conference had been the shaping of a new institutional architecture for sustainable development, and it was imperative that the UN with member states responded to this issue, and responded with serious intent and efforts. Also sensing the political frustrations that had attached themselves to CSD, governments felt that a new governance architecture was urgently needed. They therefore responded to Paragraphs 84 and 85 of the Rio+20 Outcome Document<sup>16</sup> and sat down to negotiate a new structure immediately – and with hindsight in view, perhaps too quickly.

The call for a new and better institutional architecture on sustainable development had commanded serious political space during the preparatory work leading up to the Rio Conference, not the least by the initiative that originated from several G-77 member states to establish a Council for Sustainable Development. Given a prominent space on the political agenda by a large, well-attended conference hosted by the Indonesian government in July, 2011 in the city of Solo<sup>17</sup>, the initiative to establish the council seemed well anchored and destined for fulfilment. This did not happen; opposition to a council grew among member states through 2011 and well into the Rio Conference, leaving room for growing political frustration.

There were several reasons for this - Some factors related to the belief that existing UN institutions should be fully used before establishing a new institution. Many delegates were of the belief that the sustainable development agenda of HLPF might take away most tasks that belonged to ECOSOC, thus weakening this Charter Body. Finally any voiced so-called budgetary concerns of establishing a new council. A council they claimed would be more expensive to run than a smaller, leaner unit. Incidentally, these budgetary concerns later led to the decision that the HLPF would replace ECOSOC AMR (see GA res 67/290).

A compromise between establishing a Council and merely improving the CSD had to be found, and this compromise was embedded in paragraph 84 of the Rio+20 Outcome Document through the placeholder term – a high level political forum. The paragraph reads: *“We decide to establish a universal, intergovernmental, high-level political forum, building on the strengths, experiences, resources and inclusive participation modalities of the Commission on Sustainable Development, and subsequently replacing the Commission. The high-level political forum shall follow up on the implementation of sustainable development and should avoid overlap with existing structures, bodies and entities in a cost-effective manner.”*

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<sup>15</sup> According to the UN Charter, there are three actors at the UN: Member states, representatives of Intergovernmental Organisations and Non-Governmental Organisations. The Rio process that began in 1992, formally adopted a larger and more detailed understanding of the global NGO community, by agreeing to the nine Major Groups concept (Chapter 23 of Agenda 21) with the caveat that they all be organized as bona fide NGOs. The nine are: Women, Children and Youth, Indigenous Peoples, Farmers, NGOs, Local Authorities, Science and Technology, Trade Unions and the Private Sector. The Rio+20 Outcome Document has further expanded on this understanding (paragraph 43), which is also reflected in 67/290 (paragraph 16). Various designations will be used throughout this document, but it is worth remembering that the basis is always the Non-Governmental Organisations.

<sup>16</sup> A/RES/66/288

<sup>17</sup> <http://www.uncsd2012.org/content/documents/Chairs%20Summary%20from%20Solo%20meeting.pdf>

The result of this was, as we have seen, the establishment of HLPF through UNGA resolution 67/290 in July, 2013.

### **1.5 – But additions have been made – so, now what?**

The time was July 2013 and the institution was now in place. But was it also provided with a complete and understood agenda? Had anyone sat down to analyse the many policy decisions that were taken by Rio and that would have an immediate effect on the Post 2015 Development Agenda? In fact – by July 2013, the agenda to build the future we all wanted was merely discernible by distant contours, and by that time, no one knew the full extent of the agenda governments had pledged to develop, an agenda that the governments of the world had promised the global population at the close of the Rio+20 Conference at the end of June, 2012 to conceive, fulfil and implement.

The Rio+20 Conference had agreed on three overarching agenda points: A new institutional architecture, identifying emerging issues and developing an understanding of the concept “green economy”. All three items had been hotly debated, and all three items had been dealt with, although the green economy issue had been met with everything from adulation to fierce opposition.

As stated earlier, when the format and organizational aspects of the HLPF were formally established by the UN General Assembly in July 2013, it was given a mandate, including a large, though a somewhat general agenda, but with a number of institutional short-comings. The agenda, then commonly referred to as the Post 2015 Development Agenda, was bound to grow in scope and detail over the following two years.

The UN had a deadline in sight for this work: September 2015. This was the time when a proposed Summit would take place, one to commemorate the UN at 70 and to conclude and finalise work around the Millennium Development Goals, MDGs. And having reached the target for the MDGs, all according to decisions taken in 2000 and 2001, the MDGs would be replaced with something new. It would soon become clear to everyone that this ‘something new’ would be the SDGs, already referred to as the biggest surprise to come out of the Rio+20 Process. Governments soon realised that the SDGs would encompass two major issues: replacing the MDGs and responding to the Rio+20 agenda point named ‘Emerging Issues’. By embracing the SDG issue, elegantly proposed by Colombia and supported strongly by Brazil, governments had a roadmap to 2015 as well as to the future.

With the institution HLPF in place, governments began during the autumn of 2013 deliberating the key elements of the Post 2015 Development Agenda focussing through the Open Working Group on the SDGs. The number of SDGs were bound to grow, and as agreement settled on 17 goals, member states turned to the most difficult part, how to translate the SDGs from generalities to practical, implementable and meaningful goals. Over time, the 17 SDGs were subsequently furnished with a total of 169 geographically relevant targets, in sum amounting to the most ambitious and far reaching efforts to plan ahead that was ever carried out by governments on this planet.

Parallel to this, and prompted by the same urgency that drove negotiations in the OWG, the UN GA established an Intergovernmental Committee of Experts on Sustainable Development

Financing.<sup>18</sup> Consulting widely with members of the global NGO community, in particular those representing civil society and business, the Committee delivered its report<sup>19</sup> in August 2014, almost simultaneously with the consensus agreement on the SDGs. With a thorough analysis of economic and financial issues, in general outlining opportunities and obstacles for converting thinking about economy and finance to being relevant to sustainable development and in particular surveying possibilities for paying the cost of implementing the SDGs, the committee delivered a challenge to the Third Financing for Development Conference, FfD, that took place in Addis Ababa in July 2015: It expressed the hope that their recommendations be integrated in the FfD Outcome report, then to be finalised a year later. In addition, the report also outlined areas of sustainable development financial governance and how this would relate to the UN system. Without specifically mentioning the HLPF in the report, it would soon be evident to many that a majority of its recommendations were highly relevant to HLPF in the future.

Between August 2013, just as the UN GA was about to begin its 68<sup>th</sup> Session, and May 2015, when the member states spent specific time on the HLPF, an increasing number of member states seemed to have realised that the institution that had been created two years earlier to deal with the Rio+20 and then Post 2015 Development Agenda, appeared now to be woefully inadequate.

More and more governments had begun to take serious looks at HLPF, and more and more people had begun to realise that even if the new platform was indeed innovative, had aspirational language, and in many ways was truly transformational, it also had a number of serious shortcomings. The African group spoke of an authority deficit in the negotiations and spoke several times about strengthening the HLPF. And what was initially perceived by some as shortcomings, would to others present salient problems, and yet to others identified as confusing entanglements of procedure, formalities and politics.

## 1.6 - The tasks of HLPF today

The two key documents that constitute the brunt of the post 2015 development agenda, the so called Summit 2015 Document<sup>20</sup>, aptly labelled “Transforming our World: The 2030 Agenda for Sustainable Development” and the Addis Ababa outcome document, named “The Outcome Document of the Third International Conference on Financing for development: Addis Ababa Action Agenda” have delineated a large, detailed and ambitious agenda, and in more ways than none, directed the coordination, facilitation and implementation of this agenda to the High Level Political Forum with closely related and integrated arrangements for the follow-up to Addis. The documents express serious intent casting ominous shadows if little or nothing is accomplished: “We can be the first generation to succeed in ending poverty; just as we may be the last to have a chance of saving the planet. The world will be a better place in 2030 if we succeed in our objectives.”<sup>21</sup>

But little will be accomplished if we try to use our tried and even worn down systems. To address the challenges of today and tomorrow, in the chapter called “Our shared principles

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<sup>18</sup> A/RES/67/203, adopted on December 21, 2012 titled “Implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the outcomes of the World Summit on Sustainable Development and of the United Nations Conference on Sustainable Development”, and the Rio+20 mandate

<sup>19</sup> A/69/315 of 15 August, 2014, titled “Report of the Intergovernmental Committee of Experts on Sustainable Development Financing”

<sup>20</sup> For variations in this document, I used the ‘2015 Summit Document’ as synonymous with the “Transforming our world: The 2030 Agenda for Sustainable Development”

<sup>21</sup> Paragraph 50 the “Transforming our world: The 2030 Agenda for Sustainable Development”

and commitments, the 2015 Summit Document explicitly states that “a new approach is needed”.<sup>22</sup>

References to ‘sustainable development’ and to the SDGs are so frequent in the Addis outcome Document, that it is fair to say that sustainability now saturates the FfD document. This issue will be further developed in Chapter 3 dealing with ECOSOC.

Follow-up, progress reports, reviews of the SDGs are all mentioned in this document, and HLPF is tasked with carrying out these elements.

The 2015 Summit Outcome document is more specific in its references to HLPF. Its final chapter “Follow up and review” is specifically directed to HLPF, enumerating in detail what HLPF is charged with doing in relation to national, regional and global level reviews.

Reiterating the mandate and obligations from the HLPF resolution (67/290) (see Box 1 and Box 2 for a summarised overview of all tasks to be performed by HLPF), it explicitly reaffirms that HLPF will provide “political leadership, guidance and recommendations for follow-up”.<sup>23</sup>

This paragraph becomes even more specific and in addition to the national, regional, global and thematic reviews, HLPF shall

- Promote system wide coherence
- Coordination of sustainable development policies
- Ensure the agenda remains relevant and ambitious and
  - Focus on progress
  - Achievements
  - Challenges
- Make linkages with all relevant UN Conferences, specifically those on LDCs, SIDS and LLDCs

Other programmes and implementation challenges that of necessity will have to be considered by HLPF are listed in paragraph 42 of the Summit Declaration, where the following is stated as integral to the new Agenda:

- Istanbul Declaration and Programme of Action,
- The SIDS Accelerated Modalities of Action (SAMOA) Pathway,
- The Vienna Programme of Action for Landlocked Developing Countries for the Decade 2014-2024,
- Specifying regional responsibilities the paragraph goes on to reaffirm the importance of supporting
  - The African Union’s Agenda 2063 and
  - The programme of the New Partnership for Africa’s Development (NEPAD),
- Finally the paragraph states that the major challenge to the achievement of durable peace and sustainable development will be to deal with countries in conflict and post-conflict situations

All these points are reiterated in several paragraphs of this document: 64, 74h, 76, 82, and similar references are made in the Addis Ababa Action Agenda.

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<sup>22</sup> Paragraph 13 of the “Transforming our world: The 2030 Agenda for Sustainable Development”

<sup>23</sup> Ibid, paragraph 82

HLPF shall also take cognizance of other inputs, reports that will be written annually to be dealt with by HLPF –

- An annual SDG Progress report prepared by the Secretary General, based on the global indicator framework and data produced by national statistical information collected at regional level (Para 83 of the Summit Document)
- The Global Sustainable Development Report (Para 83 of the Summit Document)
- The summary of the multi-stakeholder forum on Science Technology and Innovation for the SDGs, (Para 70 of the Summit Document and paragraphs 123 and 133 of the Addis document)

The annual report from the ECOSOC five day special high level meeting with the Bretton Woods institutions, WTO and UNCTAD to assess follow up and result orientation on financing issues and means of implementation (paragraphs 131 and 132 of the Addis document) Member states have given the 2030 agenda on sustainable development much serious thought since 2013, and expanded the agenda in depth, detail and scope. Implicitly the mandate and structure seem to have been strengthened – and repeated references to HLPF making recommendations are made. And as several delegates have commented on – recommendations cannot be made without decision making powers. Implementation of the ambitious 2030 Sustainable Development agenda is about to commence. HLPF in 2016 will be the first real one carrying out its mandates and tasks and must be as novel, inclusive and as transformative as the 2030 Agenda states. People everywhere will accept nothing less. At the moment the directives governing HLPF may seem contradicting, but as in many cases, there is method in the system.

### **1.7 - What designates a ‘body’ at the UN?**

As is the case with so many organizational elements of the UN, which more often than not has never been provided with a clear-cut definition of what they are, the concept ‘body’ is used in many varying meanings and contexts. Having talked to a large group of delegates, during the research of this paper, the majority were of the opinion that a ‘body’ of the UN carried more formal significance than a unit or an entity. Several of those I spoke with were of the opinion that a body had decision making powers, and had a mandate to underwrite such a position, and was also provide with a bureau.

A search through UN documents referring to ‘body’ proved not to substantiate such an understanding of ‘body’.

Two examples may suffice to illustrate this position: one example comes from the world of the Security Council, and the other example from the world of Human Rights. These two areas were consciously chosen; the Security Council is one of the most important political bodies at the UN today surrounded as it is by highly politically sensitive issues and by some of the most savvy experts on intergovernmental formalities. The Human Rights areas have more lawyers engaged in its work at the UN, save for the International Court of Justice in the Hague. Human Rights issues and documents should therefore carry the insignia of correct formalities when it comes to the usage of words, formulations and concepts.

Using the portal UN Search and inserting the word Body in the UN search machine gave the following results stating that the following UN bodies were involved in the “International Day Against Nuclear Tests.”<sup>24</sup>

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<sup>24</sup> <http://www.un.org/en/events/againstnucleartestsday/machinery.shtml>



- First Committee of the GA (Disarmament and International Security)
- UN Office for Disarmament Affairs
- UN Scientific Committee on the Effects of Atomic Radiation
- Conference on Disarmament
- Disarmament Commission
- Advisory Board on Disarmament Matters
- 1540 Committee (Committee to prevent proliferation of nuclear, chemical or biological weapons and their means of delivery)
- Committee on the Peaceful Uses of Outer Space
- UN Institute for Disarmament Research (UNIDIR)
- International Atomic Energy Agency

According to official UN texts, these are all listed as UN Bodies.

One of these UN bodies was “The Advisory Board on Disarmament Matters”. Concerning the structure of this body, the following is stated: “The Advisory Board on Disarmament Matters was established in 1978 pursuant to paragraph 124 of the Final Document of the Tenth Special Session of the General Assembly, and received its current mandate pursuant to General Assembly decision 54/418 of 1 December 1999.

of 1 December 1999. The Secretary-General chooses the members of the Board from all regions of the world for their knowledge and experience in the field of disarmament and international security. There are fifteen members in 2016. The Director of UNIDIR is an ex officio member.”<sup>25</sup>

When looking through the maze of UN bodies and entities, the most important bodies of the UN are the so-called UN Charter Bodies. The formalities surrounding these UN bodies – The Security Council, ECOSOC, the Trusteeship Council, The International Court at the Hague, and the UN general Assembly – are well known. Most of the delegates I spoke to, referred to these bodies as examples of what a UN body should be, and why HLPF could not be designated as a UN body.

However, using the UN search engine, and inserting ‘other UN Bodies’ ten Human Rights Treaty Bodies are listed as Bodies of the UN. These are serviced by the Office of the High Commissioner for Human Rights:

“There are currently ten human rights treaty bodies, which are committees of independent experts. Nine of these treaty bodies monitor implementation of the core international human rights treaties while the tenth treaty body, the Subcommittee on Prevention of Torture, established under the Optional Protocol to the Convention against Torture, monitors places of detention in States parties to the Optional Protocol.”<sup>26</sup>

“... the Charter Bodies include the former Commission on Human Rights, the Human Rights Council and Special Procedures ...”<sup>27</sup>

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<sup>25</sup> <https://www.un.org/disarmament/institutions/advisoryboard/>

<sup>26</sup> <http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>

<sup>27</sup> *ibid*

The text goes on to explain the different elements to the Charter Bodies, and states under “Special Procedures” as one of these bodies:

“Special Procedures is the general name given to the mechanisms established by the Commission on Human Rights and assumed by the Human Rights Council to address either specific country situations or thematic issues in all parts of the world. Special Procedures are either an individual—a special rapporteur or independent expert—or a working group. They are prominent, independent experts working on a voluntary basis, appointed by the Human Rights Council.”<sup>28</sup>

Special Procedures can be ‘mechanisms’ – an individual, a special rapporteur and a working group. Without being semantically speculative, it would not only be possible but also correct, based on formal vernacular, language specific and contextual to name the HLPF a ‘body’.

## **1.8 - This paper**

This paper will try to shed some light on what appears as lack of clarity, make efforts to answer some of the key questions raised about HLPF, and formulate various answers to additional questions that will evolve naturally from some of the options that are proposed. Rather than outlining solid conclusions, ideas will be identified, options will be examined, outlined and discussed, legal opinions referred to and without claiming to be exhaustive, references to relevant resolutions including relevant UN history will be given.

## **II - WHAT KIND OF CONSTRUCT IS THE HIGH-LEVEL POLITICAL FORUM?**

### **2.0 – Changing political realities – HLPF a relevant and new structure**

When the decision is taken in September 2015 at the UN Summit to begin implementing the post 2015 development agenda, the structure of HLPF, the organisational tool with “the central role to follow-up and review”<sup>29</sup> will have predated the finalisation of this agenda with more than two years. This lapse of time has resulted in a considerable widening of the subject-matter and tasks to be included in the responsibilities for HLPF. To reiterate, taking in the full scope of work done by member states and the UN in this period, will reveal a sizeable agenda; the outcomes of the OWG deliberations resulting in the SDGs, the Post 2015 negotiations including the Declaration, the SIDS Partnerships Conference, the Financing for Development Conference in Addis and other documents of importance referred to in the Declaration<sup>30</sup> are not only testament to this, they all demand action and implementation. Reading however the HLPF resolution, and in particular its paragraphs 2 and 7, these added responsibilities and tasks are all covered in a general manner. The specificities were however, not in place back in July 2013 when these paragraphs were conceived.

Delegates negotiating the HLPF resolution in June 2013 anticipated this development, and provided for adjustments and formal opportunities to rectify, add to, expand and concretise the more general wording found in the HLPF resolution. Paragraph 29 of the resolution is

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<sup>28</sup> *ibid*

<sup>29</sup> Paragraph 47 of the “Transforming our world: The 2030 Agenda for Sustainable Development” on “Follow-up and review: The High-Level Political Forum ... will have the central role in overseeing follow-up and review at the global level.”

<sup>30</sup> In particular see paragraphs 11, 40 and 42 of the “Transforming our world: The 2030 Agenda for Sustainable Development”

evidence of this as it states: “Further decides to review at its seventy-third session the format and the organizational aspects of the forum, unless otherwise decided.” Not only does this paragraph state that HLPF will need an organisational overhaul in 2018; it also allows for adjustments according to new and emerging realities, if these were to occur before the 73<sup>rd</sup> GA session. And with the SDGs, the targets, and the Declaration in hand, as well as a more mature understanding of the future of sustainable development, such emerging realities have occurred.<sup>31</sup> Accordingly, actions to harmonize HLPF with this reality are needed, and this paper will explore options to do that.

## 2.1 – Asking the correct questions concerning HLPF

Asking the simple question “What is the HLPF, formally speaking?” is far easier than getting into the arduous task of answering it. Perhaps such a simple question is the wrong starting point. To get the answer right, you need to get the question right as well. The point of departure to understand the HLPF is the resolution establishing the HLPF, 67/290. The question needs to be formulated based on the available information found in the HLPF resolution, and on the context in which the HLPF is supposed to operate. Questions could then be asked in the following way:

Provided there are weak elements detected in the structure and position of HLPF, and these need to be strengthened, does resolution 67/290 provide room to:

- a) Identify these weaknesses;
- b) Formally manoeuvre in such a way that HLPF can be strengthened?
- c) Are there ample ‘directives’ in the resolution that can/will help identify the areas that need to be addressed?
- d) If so, do the ‘directives’ indicate what kind of solutions that may be identified?

Since July 2013, many have attempted to expound their understanding of HLPF, and we have seen that during these two years, member states have offered language that has helped focus the identification of HLPF. The most authoritative statement on the role of HLPF is now found in the Summit Declaration whereby HLPF is given a ‘central role’ in follow-up, implementation and review. Deliberations around HLPF and its ‘central role’ have attempted to clarify issues related to this role. The following provides a list of some of the key issues that demand clarification:

- a) What decision-making authority does HLPF have, if any?
- b) As decision making and accountability are often connected, in what way does HLPF help to build accountability to the SDG process?
- c) There is also the question of hierarchical demarcation within the UN system itself – what is the relationship between
  - a. HLPF and ECOSOC,
  - b. HLPF and the UNGA,
  - c. HLPF and universality?
- d) Can HLPF rely on a support unit or secretariat to provide it with the level of expertise necessary to perform and carry out the complex nature and tasks of reviews,

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<sup>31</sup> These realities and this understanding of paragraph 29 were explained to the author of this document having interviewed several of the key delegates from the June 2013 negotiations on the HLPF resolution. These conversations were conducted under the understanding that the Chatham Rule would be respected

monitoring, implementing and pursuing the SDGs – in other words, is the system surrounding HLPF given the necessary resources in relationship to

- a. Time
- b. Expert input and coordination
- c. Identifying new and emerging issues

## **2.2 - The question of accountability and HLPF**

Finding the right answers to the questions listed above, will also reveal the depth and strength of the degree of accountability found inherently in HLPF. The level of accountability relates to the strength and integrity of an institution. The better the quality of an organisational system is, the greater the level of transparency, efficiency and solidity found in decisions, the more accountable the organisation will be. Above all, accountability mechanisms are directly linked to decision making processes, how decisions are made, by whom, and with what consequences for the issues at stake. The level of participation and influence will also indicate quality of accountability. An often forgotten or ignored part of accountability is the level of expertise and efficiency with which these decisions are made. Generalities and aspirational words with little substance to them often obfuscate good intentions to strengthen accountability. Such wording also weakens and undermines operational or practical accountability.

Measures of accountability are invariably connected to decision making, authority and representativity, and all these elements will also have to be considered in answering the above listed questions. Accountability as a key element of governance represents a moral, legal and policy quandary, and is often viewed as a different issue depending on its context – whereas HLPF accountability is viewed in a global intergovernmental context, SDG implementation coordinated through HLPF will be seen in a national context.

One basis in organisational theory and practice concerns the closeness and relevance of the decision making body in the organisation to its constituency and their concerns. Indirect governance systems always struggle with these issues. Does HLPF have adequate institutional decision making systems to provide the necessary level of accountability to the review and follow process anticipated in the 2015 Summit Declaration? If there is no credible decision making, follow up and review of the SDG process, the momentum of this agenda will soon be lost, and people will either ignore or undermine these efforts. It is hard to imagine that Member States would have placed the huge responsibility to follow-up on the Agenda to a Davos-like platform with no outcome. The future of “Transforming our World: The 2030 Agenda for Sustainable Development” is contingent on delineating these answers for HLPF and making sure this new UN construct functions, and functions well.

## **2.3 - HLPF is established as a what? An exigent interpretation**

Member states have given much attention to HLPF during their post 2015 deliberations, and HLPF has a much more defined profile today, than was the case in July 2013. Several official UN documents, carrying the hallmark of consensus, have dealt with HLPF to a surprisingly detailed level, and these documents are integral to any interpretation of the organisational, procedural and political reality of HLPF. These documents will be duly referred to in the following pages.

According to legal opinion – any construct established within the United Nations by a UN General Assembly resolution is to be considered a formal body with the authority to make

decisions (see **footnote 37XX** for further references on this issue). What makes the HLPF unique and new – is its formal position in the UN hierarchy. According to paragraph 3 of the UNGA resolution 67/290, it has been mandated with authority by two Charter Bodies of the UN, the General Assembly and the Economic and Social Council, ECOSOC: “*Also decides that the meetings of the forum shall be convened under the auspices of the General Assembly and of the Economic and Social Council*”<sup>32</sup>. There are other bodies in the UN system, that have a relationship with UNGA and ECOSOC, so-called semi-autonomous bodies (see Box 4. **P 26XX**), but their relationship with the Charter bodies and the relationship that HLPF has with the Charter bodies, is slightly different, and this difference needs to be identified. The resolution affords HLPF with more specific identity references in paragraphs 6 and 7 (of 67/290). These two paragraphs delineate further the formal position of HLPF by outlining how it must perform its different tasks: HLPF is to function every year under the ‘auspices of ECOSOC’, and every fourth year of its existence, it shall also function “under the auspices of the UN General Assembly” (With the present understanding, the GA High Level meeting will take place in 2019<sup>33</sup>).

HLPF has its own, quite unique identity within the UN system. It is not a subsidiary body of ECOSOC, nor an ECOSOC partner. It is also not a GA subsidiary. This is demonstrated by its different universal membership and its own rules of procedure. There is also the fact that HLPF is elaborated through an entire GA resolution whereas ECOSOC segments only have a few lines. HLPF under ECOSOC and GA also has parallel characteristics. Finally the 2030 Agenda 2015?? spells out the difference between what HLPF will do under GA and ECOSOC.

All this prompts the following questions: as the HLPF is a new construct within the UN system, is it a ‘body’, if so, what kind of a body is it, and what authority does it have as a body? And if it is a new body, which paragraphs of 67/290 constitute the formalising paragraphs of HLPF sustaining it with authority to allow it to make decisions? Taking a closer look at its position in the UN hierarchy is warranted, and making an effort to understand its position, its mandates and its authorities is therefore important before looking at how it is going to implement its agenda.

#### **2.4 – Perhaps HLPF is merely a forum?**

The word forum is used repeatedly in referring to HLPF. The resolution utilizes this word several times. During 2013 and 2014 a handful of governments made efforts to interpret HLPF to be merely a forum for discussion and nothing else. Listening to their expose of a possible HLPF five day meeting, it appeared to be nothing more than a prolonged side-event. A ‘forum’ has no formal standing within the UN system, they claimed. As a stand-alone phrase, this interpretation is correct. However, as so often is the case with political concepts, they must be understood in a proper context.

Even the UN General Assembly has been referred to as a forum, but that has not reduced its political standing or importance as the highest authority of the UN in making decisions. On the 14<sup>th</sup> of January, 1994 the UNGA agreed on resolution A/RES/48/162 called “Further measures for the restructuring and revitalization of the United Nations in the economic, social and related fields”. Chapter III on Institutional Reforms, part 1 is about the role of the General Assembly. Paragraph 11 states that: “*The General Assembly is the highest intergovernmental*

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<sup>32</sup> Para 3 of UNGA 67/290

<sup>33</sup> Paragraph 87 of “Transforming our world: The 2030 Agenda for Sustainable Development”

*mechanism for the formulation and appraisal of policy on matters relating to the economic, social and related fields, in accordance with Chapter IX of the Charter. It is the main forum where Governments pursue the development dialogue, which includes all these issues, in its political context. The purpose of the dialogue is to take an integrated view of matters relating to the economic, social and related fields in order to build and deepen the political understanding required for enhanced international development cooperation, to generate impulses for action and to launch initiatives.”*

The UN GA as a forum here is understood to be what is expressed in Article 7, paragraph 1 of the Charter: that the General Assembly is a principle organ of the United Nations.

The significance and political importance of the forum in HLPF is taken from paragraph 3 of 67/290 – that HLPF is established under the dual ownership of the UN General Assembly and ECOSOC. Hence, HLPF is more than a discussion forum.

## **2.5 – Perhaps HLPF is a platform?**

During the first year of its ‘procedural existence’ (2013), a few member states resolutely referred to HLPF as a platform, in an effort perhaps to lowering the status of the new construct to merely a discussion forum. The concept ‘platform’ is used three times in the resolution, but with different contextual references.

But first, what is a platform and what formal position in the UN system does a platform have? Others kept referring to HLPF as a process, which is even looser than a platform.

According to the Concise Oxford Dictionary, a platform is the declared policy of a party or group and a site or place providing an opportunity to voice one’s views. Looking through the vast library of the UN, it is difficult to ascertain the formal meaning of the word platform. However, as often is the case, a phrase or word may be given a wider understanding if we also look at its contextual usage.

Today the word platform is used more often than not to describe internet platforms, which are sites where one can obtain information about specific themes – such as the Sustainable Development Knowledge Platform. UN Global Compact Business Partnership Hub uses the word in similar ways and explains to the curious reader that it is “an interactive, online platform designed to connect businesses with potential partners in support of UN goals and issues.”<sup>34</sup>

The UN Foundation takes a similar position when it states that “When disaster strikes, the world turns to one organization for hope, help, leadership, and coordination: the United Nations. When there is peace to keep between warring factions, the world asks the UN to mobilize peacekeepers, oversee elections, and create stability. In the face of challenges such as climate change, disease or poverty, the United Nations provides the platform for international cooperation.”<sup>35</sup>

Another example illustrating the semi-formal nature of platforms is from the web-site of “UNISDR – the UN Office for Disaster Risk Reduction”. It states that:” Thematic platforms are independent groups in the disaster risk reduction community focused on supporting the implementation of the Hyogo Framework for Action and the new Sendai Framework for Disaster Risk Reduction. They aim to integrate specific global technical expertise with the concerns of policy makers and practitioners in the thematic areas of disaster risk reduction.”

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<sup>34</sup> <https://www.unglobalcompact.org/howtoparticipate/lead/index.html>

<sup>35</sup> <http://www.unfoundation.org/who-we-are/?referrer=https://www.google.no/#sthash.v3uqXsrG.dpuf>

UNISDR then goes on to present ten thematic platforms, all providing information and analysis on key issues related to disaster reduction work.<sup>36</sup>

The most ambitious use of ‘platform’ is connected to the outcome document from the UN’s Fourth World Conference on Women, the Beijing Platform for Action. The introductory paragraph sets out what it is: “The Platform for Action is an agenda for women’s empowerment. It aims at accelerating the implementation of the Nairobi Forward-looking Strategies for the Advancement of Women and at removing all the obstacles to women’s active participation in all spheres of public and private life through a full and equal share in economic, social, cultural and political decision-making.”<sup>37</sup>

The first reference to ‘platform’ in the HLPF resolution is the reference to the Beijing Platform of Action. This reference is found in the preambular section of the resolution and is only used as a reference to point to what some of the obligations HLPF has to be concerned with.

The next two references to ‘platform’, may give us an indication of whether HLPF can be listed as a platform or as a body.

Paragraph 8c states that: “*Shall provide a platform for partnerships, including through the participation of major groups and other relevant stakeholders;*”

and paragraph 18 states: “*Emphasizes that the forum shall provide a dynamic platform for regular dialogue and for stocktaking and agenda-setting to advance sustainable development and that the agenda of all meetings of the high-level political forum shall be focused, while allowing flexibility to address new and emerging issues;*”

Both paragraphs state that HLPF shall provide platforms. The paragraphs do not say that HLPF shall be a platform. In fact, in these two paragraphs HLPF is mandated to provide a basis for establishing the two platforms and as such has formal authority over platforms: in 8c) HLPF establishes a platform for partnerships, and in 18) HLPF provides a platform for regular stocktaking and dialogue to identify emerging issues and help provide input into the upcoming agenda for HLPF. The UNGA resolution 67/290 with the two masters of HLPF, the UNGA and ECOSOC designates HLPF as high level and as a forum. As referred to earlier, as HLPF has been established by the UNGA and functions as a body, it is more than a discussion forum and an information platform.

## **2.6 - “The High Level Political Forum ... will have the central role in overseeing follow-up and review at the global level”<sup>38</sup>**

A considerable amount of deliberations have been invested into understanding the HLPF since it was established back in 2013. Its position within the UN system, its authority, responsibilities and tasks are better understood now. Simultaneously, while this understanding has deepened and its responsibilities become more detailed, member states have entitled it to a stronger political position within the UN system. This understanding is bolstered by the language found in the Summit Declaration (September 2015). Member states succinctly state in paragraph 47 that they will “provide for systematic follow-up and review at the various levels, as set out in this Agenda<sup>39</sup> and the Addis Ababa Action Agenda. The High Level Political Forum under the auspices of the General Assembly and the Economic and Social Council will have the central role in overseeing follow-up and review at the global level.”

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<sup>36</sup> <http://www.unisdr.org/partners/thematic-platforms>

<sup>37</sup> <http://www.un.org/womenwatch/daw/beijing/platform/plat1.htm>

<sup>38</sup> Paragraph 47 of the “Transforming our world: The 2030 Agenda for Sustainable Development” on “Follow-up and review:

<sup>39</sup> “Transforming our world: The 2030 Agenda for Sustainable Development”

The HLPF is given the central role in overseeing and following up this process, and this consolidates its role as the UN's pre-eminent sustainable development institution. For how could a platform of an informal nature oversee work of established bodies of the UN system? It follows as well - how can HLPF perform this important tasks which it has been mandated to do, without decision-making authority?

The status and position of HLPF have been subjected to several creative suggestions. What has been of interest is that all these suggestions have of late spoken of HLPF as a true high level entity. Words and concepts are often given their true political status by context. On one side, it would be fair to state that HLPF could never be designated as anything but high level, as this is explicit by the translation of its acronym. But what has been interested to observe is that HLPF has also contextually been given a high level, and politically significant position by member states.

By June 2015, the HLPF was referred to as the apex of global organisations. Paragraph 8 of the “Zero draft of the outcome document for the UN Summit to adopt the Post-2015 Development Agenda” stated: *“The HLPF will be the apex of a global network of review processes, working coherently with the General Assembly, ECOSOC and other relevant actors, in accordance with existing mandates. It will facilitate sharing of experiences, including successes, challenges and lessons learned, and promote system-wide coherence and coordination of sustainable development policies. Adequate linkages will be made with the follow-up and review of UN Conferences on LDCs, SIDS, LLDCs and countries in special situations.”*<sup>40</sup>

The Co-chairs of the SDG process had made serious efforts to encapsulate the intentions member states expressed in discussing HLPF during the May SDG meeting, and their June 2015 Zero Draft nominated HLPF to become an ‘apex’ institution for sustainable development was based on these discussions.<sup>41</sup> The final and accepted wording referring to HLPF is now based on the deliberations in August 2015, which was the last phase of the SDG negotiations. In this text, the reference to HLPF is that it will have a ‘central role. (“The High Level Political Forum under the auspices of the General Assembly and the Economic and Social Council will have the central role in overseeing follow-up and review at the global level”).

A final and deciding factor in “overseeing and following up” is also the preparatory process leading into the HLPF conference.

Some delegations have expressed the view that the HLPF work will be prepared through the work of the entire UN system. The word coherence has been used many times to underline the importance of this system-wide preparatory process. This could be the case e.g. for thematic reviews. If so, this may also emulate or be inspired by the task-manager system that was used successfully by CSD for a number of years. Another question which will led directly into this discussion is how the national reviews will be conducted and what format these will take on. There might also be a need for an intermediate reflection to analyze the inputs of the UN system into national reviews so as to identify strategic issues the HLPF should focus on. This has already happened with the resent (May 16) proposal by the PGA from Denmark, giving HLPF an overarching theme and clustering SDGs and targets under this thematic heading. If HLPF is not given its proper authority, there seems little reason why governments should take HLPF and all its incumbent responsibilities seriously. Should that happen, HLPF will forfeit the entire Rio+20 Outcome result.

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<sup>40</sup> <https://sustainabledevelopment.un.org/content/documents/7261Post-2015%20Summit%20-%20June%202015.pdf>

<sup>41</sup> The idea of ‘apex’ was proposed by the US delegation



The following two boxes provide extracts from the HLPF resolution, 67/290, (Box 1) and from the September 2015 Summit Declaration (Box 2), summarising the mandates, obligations and responsibilities given HLPF. And to carry out responsibilities and tasks, an institution must be provided with a form of executing authority. Reading carefully the texts summarised in the text boxes, and comparing them, we see that these texts complement each other well in terms of responsibilities given HLPF. What is different is that the latter text contains a more detailed overview of the responsibilities and tasks given HLPF.

## **BOX 2 – extracts from the HLPF UNGA Resolution, 67/290**

### **From Paragraph 1 –**

- provide political leadership, guidance and recommendations for sustainable development,
- follow up and review progress in the implementation of sustainable development commitments, - further elaborated in detail under paragraphs 8, involving several operative subparagraphs
- enhance the integration of the three dimensions of sustainable development in a holistic and cross-sectoral manner at all levels and have a focused,
- have a focused, dynamic and action-oriented agenda, ensuring the appropriate consideration of new and emerging sustainable development challenges

### **From Paragraph 6 –**

*Also decides* that the meetings of the forum under the auspices of the General Assembly:

- Shall result in a concise negotiated political declaration to be submitted for the consideration of the Assembly;

### **From Paragraph 7 –**

*Further decides* that the meetings of the forum under the auspices of the Economic and Social Council:

- Shall have a thematic focus reflecting the integration of the three dimensions of sustainable development, in line with the thematic focus of the activities of the Council and consistent with the post-2015 development agenda;
- Shall follow up and review progress in the implementation of all the outcomes of the major United Nations conferences and summits in the economic, social and environmental fields,
- Contribute to the enhanced integration of the three dimensions of sustainable development in a holistic and cross-sectoral manner at all levels,
- and in this regard invites the forum to take into account the contributions and work of relevant United Nations intergovernmental bodies in the social, economic and environmental fields;

- as well as their respective means of implementation,
- improve cooperation and coordination within the United Nations system on sustainable development programmes and policies,
- promote the sharing of best practices and experiences relating to the implementation of sustainable development and,
- facilitate sharing of experiences, including successes, challenges and lessons learned,
- and promote system-wide coherence and coordination of sustainable development policies;
- shall take into account the work of the Development Cooperation Forum, as well as other activities of the Council relating to the integration and implementation of sustainable development;
- Shall benefit from regional preparatory processes; NB all five regions including the concrete elements itemised in paragraph 13
- Shall result in a negotiated ministerial declaration for inclusion in the report of the Council to the General Assembly;

**From paragraph 11**

with the aim of *Decides* that the meetings of the forum shall devote adequate time to the discussion of the sustainable development challenges facing developing countries,

- including the most vulnerable countries,
  - including the most vulnerable countries,
  - in particular the least developed countries,
  - small island developing States,
  - landlocked developing countries and African countries,
- enhancing engagement and implementing commitments
- recognize the particular challenges facing the middle-income countries in achieving sustainable development, and
- reiterates that the efforts of middle-income countries should be adequately supported by the international community, in various forms, taking into account the needs of those countries and their capacity to mobilize domestic resources;

**From paragraph 17**

- Invite and hear reports from the Bretton Woods Institutions
- The World Trade Organization
- Other relevant intergovernmental organizations

**From Paragraph 18**

- Identify and address new and emerging issues

**From Paragraph 20**

*Decides* that the forum shall strengthen

- the science-policy interface by examining documentation, bringing together dispersed information and assessments,
- The Global Sustainable Development Report, GSDR, building on existing assessments, enhancing evidence-based decision-making at all levels and contributing to the strengthening of ongoing capacity-building for data collection and analysis in developing countries,

**From Paragraph 21 – SCP**

- *Also decides* that the forum may provide recommendations to the board of the 10-year framework of programmes for sustainable consumption and production, as well as to the United Nations Environment Programme, as the secretariat of the 10-year framework, taking into account their reports;

**From Paragraph 22 – Agenda setting**

Coordinate and receive input from the Bureaux of the relevant committees of the Assembly, from relevant bodies of the UN-system and from major groups and other stakeholders

**From Paragraph 23**

Receive input through its secretariat, from funds and programmes, multilateral financial and trade institutions, the secretariats of the three Rio conventions and other relevant treaty bodies and international organizations within their respective mandates;

**From Paragraph 29**

Conduct a review at the 73 GA session, i.e. in 2018

**Box 3 – Extracts from the “Transforming our world: The 2030 Agenda for Sustainable Development”**

**Regional level, from paragraph 80  
HLPF shall**

Follow-up and review at the regional and sub-regional levels can with the support of UN regional commissions

- provide useful opportunities for peer learning,
- through voluntary reviews,
- sharing of best practices
- discussion on shared targets
- Provide for cooperation of regional and sub-regional commissions and organizations.
- regional processes drawing on national-level reviews
- contribute to follow-up and review at the global level,
- presented at the High Level Political Forum on sustainable development (HLPF)

**Global level from paragraph 82**

**HLPF will**

- Have a central role in overseeing a network of follow-up and review processes,
- Work coherently with the General Assembly, ECOSOC and other relevant organs and forums, in accordance with existing mandates.
  
- 
- Facilitate sharing of experiences, successes, challenges, lessons learned,
- Provide political leadership, guidance and recommendations for follow-up.
- Promote system-wide coherence and coordination of sustainable development policies.
- Ensure that the Agenda
  - is relevant and ambitious
  - will focus on the assessment of progress, achievements and challenges faced by developed and developing countries
  - new and emerging issues
- Effective linkages will be made with the follow-up and review arrangements of
  - all relevant UN Conferences and processes
  - and LDCs, SIDS and LLDCs

**From paragraph 83**

Follow-up and review at the HLPF will

- Be informed by an annual SDG Progress Report to be prepared by the Secretary General in cooperation with the UN System, based on the global indicator framework and data produced by national statistical systems and information collected at the regional level.
- Be informed by the Global Sustainable Development Report, which shall strengthen the science-policy interface
- Provide evidence-based instrument to support policy-makers in promoting poverty eradication and sustainable development.

**From paragraph 84**

The HLPF, under the auspices of ECOSOC,

- Shall carry out regular voluntary reviews with all mentioned stakeholders involved be stated, at ministerial/ high-level
- The reviews shall provide a platform for partnerships with all relevant stakeholders

**From paragraph 85**

HLPF will conduct:

- Thematic reviews of progress on the SDGs, including cross-cutting issues, supported by:
  - Reviews by ECOSOC functional commissions
  - Other inter-governmental bodies and forums reflecting the integrated nature of the goals
  - Interlinkages between them
- Reviews will reflect all relevant stakeholders, feed into, and be aligned with, the cycle of the HLPF

**From paragraph 86**

Integrated into the follow-up and review framework of the Agenda, carried out by HLPF will be

- The Addis Ababa Action Agenda,
- The dedicated follow-up and review for the Financing for Development outcomes
- All the means of implementation of the SDGs
- The intergovernmentally agreed conclusions and recommendations of the annual ECOSOC Forum on Financing for Development.

**From paragraph 87**

- Every four years under the auspices of the General Assembly, the HLPF will provide: high-level political guidance on the Agenda and its implementation,
- identify progress and emerging challenges and mobilize further actions to accelerate implementation
- The next HLPF, under the auspices of the General Assembly, will take place in 2019.
- The cycle of meetings will thus reset, in order to maximize coherence with the Quadrennial Comprehensive Policy Review process.

**From paragraph 88**

The following is stressed:

- The importance of system-wide strategic planning, implementation and reporting
- Coherent, integrated support to implementation of the new Agenda by the UN development system.
- The relevant governing bodies to take action to review support to implementation and to report on progress and obstacles.
- The ongoing ECOSOC Dialogues on the longer term positioning of the UN development system, action taken on these issues, as appropriate.

**From paragraph 89**

The HLPF will

- Support participation in follow-up and review processes by
- The major groups and other relevant stakeholders in line with Resolution 67/290 to report on their contribution to the implementation of the Agenda.

The paragraph gives a mandate for the HLPF to conduct reviews of the contribution to implementation of major groups and other stakeholders who volunteer.

**In addition:****From paragraph 90**

The Secretary General is requested, in consultation with Member States, to prepare a report, for consideration at the 70th session of the General Assembly in preparation for the 2016 meeting of the HLPF, which outlines:

- Critical milestones towards coherent efficient,
- Inclusive follow-up and review at the global level
  - To include a proposal on the organizational arrangements for state-led reviews at the HLPF under the auspices of ECOSOC,
  - including recommendations on a voluntary common reporting guidelines, clarifying:
    - institutional responsibilities
    - providing guidance on annual themes,
    - on a sequence of thematic reviews,
    - on options for periodic reviews for the HLPF.

**Also – from paragraph 83**

We invite the President of ECOSOC to conduct a process of consultations on the scope, methodology and frequency of the Report as well as its relation to the SDG Progress Report, the outcome of which should be reflected in the Ministerial Declaration of the HLPF session in 2016.

## 2.7 - Can HLPF be formally labelled a UN Body?

Based on the two text excerpts above, a possible conclusion is to assert that HLPF is a high level body with decision-making authority. Within the UN system HLPF is mandated by two of the highest authorities of the UN, the General Assembly and ECOSOC (paragraph 3 of 67/290). Its mandate as expressed in paragraph 2, and its operative order, expressed through several of its paragraphs – of which paragraphs 7 and 8 are key – falls well within the operative sine qua non of the UN – the principle of subsidiarity. As a body with such a mandate, HLPF is consequently a body endowed with decision-making as well as implementing authorities. Such an interpretation makes it a body with participation from all 193 UN member states, or, if one wants to use an expository or teleological approach, a body with universal membership<sup>42</sup> (also see paragraph 4 of 67/290).

Underlining such a position are a few key formal, juridical and functional elements:

1. HLPF is established under the well proven system of subsidiarity, an expressed sine qua non of the UN system (See the discussion on subsidiarity in the section called ADDENDUM ;
2. Reading through the paragraphs of the resolution establishing the HLPF, key systems of authority are integrated into the mandate of HLPF – it has two masters, the UNGA and ECOSOC, it is responsible to and reporting to both, and it receives its authority from both, as such it is a universal, intergovernmental body with universal membership;

It is given the authority to take decisions, among them to give recommendations. This is clearly expressed in paragraph 2 of 67/290, and reiterated by the September Summit Declaration, in paragraph 82, where HLPF is designated as having a central role, and imbued with the authority to “provide political leadership, guidance and recommendations for follow-up.” The fact that the HLPF adopts a declaration, and the fact the it adopted its report in 2014 and 2015 and its theme in 2015 also show that the HLPF takes decision. One wonders why the Secretariat of ECOSOC did not give a number to these decisions as is usually done. This created confusion among delegations as to how the theme of the HLPF was decided. Some thought there was a lack of transparency in this particular decision.

## 2.8 - Can HLPF be strengthened, formally?

The resolution establishing CSD, explicitly established a bureau to govern the institution. Unlike CSD, HLPF has not been endowed with such a governance tool. Whether this was an oversight by member states when the HLPF resolution was being negotiated in July 2013, or not, remains a topic for discussion.

### **Box 4 – a story**

There is however, an interesting anecdotal story to be added here – if for nothing else, to complement the story of the ‘missing bureau’. As often is the case in intergovernmental fora, as negotiations draw to a close, there is a tendency to rush things through to finish

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<sup>42</sup> The HLPF membership is actually higher than the sum of the official UNGA membership as paragraph 4 of 67/290 states that the HLPF membership also includes those states that are members of the specialized agencies, bringing the total membership to 197.

issues on time. The negotiations on 67/290 were close to conclusion after nearly two weeks of intense work and delegates were obviously eager to finalise their work successfully. The question of a decision making element of the HLPF had been raised several times, but left aside to be looked into later. The wrapping up session had begun, the gavel was frequently used as agreements abounded, when suddenly a few persons approached the chair and actually told the chair that HLPF had not been given a bureau. Senior officials from delegations had already left the room and a quick side consultation was held with a few delegates. These delegates were what may be called ‘junior delegates and new to the game’ and nothing came of this last call for including such a formal element as a bureau. Hence the bureau disappeared in thin air.

The question of the bureau has been raised by a number of member states since then asking whether a governance mechanism can be established without disrupting the wording of the HLPF resolution or reopening it for further negotiations. According to paragraph 29 of 67/290, HLPF will be subjected to a review at the 73<sup>rd</sup> session of the UNGA (September 2018 – Spring 2019).

In other words, does the spirit of the UNGA resolution allow member states to strengthen HLPF in a number of ways? Could a discussion on HLPF modalities take place for instance in meeting in the 2<sup>nd</sup> Committee as early as during the autumn of 2015 or during the GA process on review when the agenda deals with follow up to Agenda 21? And if so, what points could be discussed, and with what outcome?

## **2.9 – Unless otherwise decided**

During the week-long SDG deliberations in May 2015, 18 – 22 May, several member states made statements to the effect that HLPF seemed to have been given inadequate resources to handle the large and growing agenda bestowed upon it by member states. A recurring problem which was highlighted seemed to be the lack of time stipulated in the UN calendar for HLPF – five days of negotiations with three days of Ministerial deliberations. Some states also pointed to the lack of governance mechanisms, others pointed to the issue of resources given the secretariat supporting HLPF, asserting they were also inadequate. At the same time, many member states called for an integrated secretariat. Even though several member states seemed to tacitly agree that these and other shortcomings were real and needed to be remedied, no one seemed willing to substantiate this knowledge through immediate action and propose language to strengthen HLPF.

As one seasoned negotiator quietly observed in the Vienna Café during the May session – “in 1992 we first agreed on Agenda 21, and after we saw the scope and width of the agenda, we established a body, CSD, to deal with this agenda giving it what we thought were adequate resources – time, human and financial. This time we have done it the other way around – we first tried to construct the body, and now, two years later, we have developed the agenda. And as we now realize that the agenda is far bigger and more demanding than the capacity of the body we established we need to rectify this obvious problem. And that is why we agreed to paragraph 29<sup>43</sup>.

If there is common agreement that HLPF needs to be strengthened on most accounts, can HLPF be given additional tools that absorb the concerns of member states: add more time,

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<sup>43</sup> See also footnote 13



strengthen the institution, provide it with a well-resourced secretariat without - as indicated above - disrupting the wording of the resolution? The answer to this question is a 'yes'. According to the wording of UNGA resolution 67/290, member states can actually review and add to the existing resolution by using paragraph 29 which states: "*Further decides to review at its seventy-third session the format and the organizational aspects of the forum, unless otherwise decided;*" At the same time, it does not seem wise to wait for September 2019 to fix the shortcomings of the institutions to which the follow-up of the ambitious Agenda 2030 is entrusted. The ability of the UN to keep promoting the 2030 Agenda will be judged in no small part on whether the HLPF shows it is able to deliver on its mandates and capture the energy, inclusiveness and vision of the negotiations on the post-2015 Agenda.

Following the adoption of the SDGs at the September Summit, a serious revision of the capacities of their coordinating body could take place. Taking the phrase literally – unless otherwise decided – opens formally a possibility for member states to decide to strengthen HLPF immediately. This could mean that member states in UN GA 2<sup>nd</sup> Committee, during its Agenda 21 deliberations in October or during the GA process on global review, could add to HLPF's capacities.

In fact, in the follow up to the Rio+20 decision to establish a UN Environment Assembly, UNEA, with global membership, to replace the UNEP Governing Council, the Committee of Permanent Representatives at UNEP, CPR, which functions as a bureau for UNEP – decided with the consent of the member states to establish a preparatory conference for UNEA. This conference will take place now every year during early spring that UNEA is organised, and be a week-long event. Member states simply added a whole week of preparatory negotiations to the already established UNEA week when they realised that the agenda demanded more time than was first anticipated. Member states have time and again shown that where there is political will, they can come together and agree to find ways to amend situations that may appear egregious and impede or hamper plans to implement agendas. When it became obvious to member states that the old system at UNEP was inadequate to carry out decisions from the Rio+20 Outcome Document, they quickly introduced new measures to rectify the situation. Member states could do the same with the HLPF.

As we have noted earlier in this paper (cfr paragraph 2.0), in anticipation of an eventual large agenda to be handled by HLPF, delegates have been provided with formal opportunities through paragraph 29 of 67/290 to alter and strengthen what they see needs altered. This can actually be done immediately, and then made properly and permanently in 2018 when HLPF according to 67/290 (paragraph 29) shall be reviewed.

## **2.10 - Which paragraphs deal with the structure and governance of HLPF?**

A close reading of 67/290 reveals that the resolution has authorised HLPF to carry out and execute work on a number of issues, and in so doing a visible structure of a governance mechanism appears. The following paragraphs in 67/290 deal with governance, authority and structure of the HLPF:

- Para 1 - states that HLPF should build on lessons learned from CSD.
- Para 2 – states that HLPF shall have an intergovernmental character
- Para 3 – states that HLPH is convened under the UNGA and ECOSOC
- Para 4 – outlines the entire membership basis, to be universal
- Para 5 – states that meetings of HLPF shall reach agreements through consensus



- Para 6 – states that HLPF shall be convened and chaired every 4 years by the President of the UNGA, at Heads of State level
- Para 7 – states that HLPF shall every year be convened and chaired by the President of the Council;
- Paras 7f and 13 – state that HLPF shall work with regional commissions
- Para 8 – states that HLPF has the authority to conduct reviews of the SDGs, provide a platform for partnerships and organise the results of the reviews in presentations to the UN;
- Para 9 – states what rules of procedure to be used during the HLPF and establishes authority of HLPF over procedural rules for UNGA and ECOSOC, through the following wording: “unless otherwise decided” and “provided for in this resolution”
- Para 13 – states that Regional Commission shall contribute to the work of HLPF
- Para 14 – states that the Forum shall promote transparency, and use modalities from CSD concerning civil society
- Para 15 – gives extended privileges for major groups and other stakeholders to participate
- Para 17 – states that the UN system, Bretton Woods institutions, World Trade Organisations and other intergovernmental organisations shall be invited
- Para 18 – states that HLPF shall address emerging issues and establish and provide a platform for stocktaking and agenda setting to advance sustainable development;
- Para 20 – states that HLPF has the authority to strengthen the science policy interface, develop the GSDR, contribute to capacity building and data-collection in developing nations;
- Para 21 states that HLPF may provide recommendations to the board of the 10-year framework on programmes for sustainable consumption and production; including to UNEP serving as the secretariat for this programme
- Para 22 – states that the President of the GA, the President of ECOSOC, coordinating with representatives of the Bureaux of the GA shall organise the activities of the HLPF;
- Paragraphs 23 and 24 – states that HLP shall be supported by all relevant UN entities including UNDESA, funds, trade institutions, treaty bodies and the Rio conventions and provides HLPF with a financial basis

Despite the detectable governance elements found in all these paragraphs, and unlike the resolution that established CSD, there is no definite reference to a coordinating unit or body for supporting and guiding the work of the HLPF. The resolution calls for input from a number of UN units to steer its work, the question as to who or what coordinates and eventually decides, remains unspecific. There are in place a few overarching tasks which contain direct governance implementation of HLPF:

- a) The President of ECOSOC convenes and chairs annually the HLPF session (paragraph 7 of 67/290);
- b) The President of the GA convenes and chairs the HLPF meeting at Heads of State Level every four year (paragraph 6 of 67/290);

- c) The outcome of the HLPF negotiations shall be declarations at Ministerial level;
- d) A Heads of State declaration statement every fourth year to be submitted for consideration by the GA.

But during the work-year between the HLPF meetings, who decides, coordinates, integrates and follows up? An important issue raised by many member states at the 2015 HLPF was the need for greater transparency and inclusiveness in preparing the HLPF which is normally ensured through a bureau.

And to repeat, member states are always in a position to take decisions and clarify issues, and when there is a political will, member states have resolved issues that are much more difficult than tying together what may appear as loose administrative ends pertaining to the HLPF.

### **2.11 - An HLPF Steering Committee to solve the universality conundrum**

Bearing in mind the paragraphs listed above, dealing with governance and authority elements of HLPF, it could be possible to establish a Steering Committee for guiding the work of the HLPF consisting of members from the two key bodies that give the HLPF its formal existence – the UNGA and ECOSOC.

The text provided by paragraph 22 of 67/290 may offer a basis for a formal solution:

*“Requests the President of the General Assembly and the President of the Economic and Social Council to coordinate with the Bureau of the Council and with the bureaux of the relevant committees of the Assembly to organize the activities of the forum so as to benefit from the inputs and advice of the United Nations system, the major groups and other relevant stakeholders, as appropriate;”*

There is a clear reference in this paragraph to the Bureaux of the GA committees and a direct request to the formal Heads of ECOSOC and the GA respectively to coordinate with these bodies, which are all at the highest level of the UN, and cater to the full, universal membership of the UN.

A Steering Committee for the HLPF could have members from the Bureaux of the Second and Third GA committees – perhaps two or three from each, making the total number of the Steering Committee twelve or eighteen, whichever number best suits and is appropriate for the geographical representative system of the UN. Given the breadth of the agenda, it could be considered to engage the bureau of the First Committee on peace. Such a construct could function the following way (NOTE: the following points are all in harmony with the 30 paragraphs of 67/290):

- The Steering Committee would always be chaired by the President of ECOSOC, and every fourth year, when the HLPF is convened under the GA, the President of ECOSOC becomes the Vice Chair and the GA President becomes the Chair;
- Such a Steering Committee would combine the “steering function of the two formal elements of the HLPF – UNGA and ECOSOC;
- This could help solve the universality conundrum which exists between the fact that HLPF is a universal body, but also functions under the auspices of ECOSOC, which has 54 nations as members; having such a steering body would be less ‘bureaucratic’ than an established Bureau, but – as noted – having a Bureau for CSD never posed a problem for ECOSOC or the UNGA;

- the Steering Committee, will be able to function as an informal clearing house body catering to and absorbing all the formal requirements of the paragraphs referred to above, without violating the formal structure given HLPF;
- The Steering Committee will more specifically be in a position to include into the works of the HLPF those requirements listed under paragraphs 17 and 22 (of 67/290) and support the President of ECOSOC in his/her functions for HLPF; (Para 17 – states that the UN system, Bretton Woods institutions, World Trade Organisations and other intergovernmental organisations shall be invited Para 22 – states that the President of the GA, the President of ECOSOC, and representatives of the Bureaux of the GA shall organise the activities of the HLPF;)
- The Steering Committee would also be in a position to prepare the agendas for HLPF, and with the member states address national concerns, and with ECOSOC coordinate the SDGs across the entire UN system;
- A Steering Committee, as proposed and representing all member states of the UN, would be formally in a position to make recommendations, for the consideration of the HLPF, that are valid throughout the system, on follow-up and reviews, as requested by paragraph 2 of 67/290 and paragraph 82 of the September 2015 Summit Declaration;
- As this will be the governance mechanism of HLPF, major groups and other stakeholders could be included or added to the Steering Committee, in an advisory capacity. (The Organising Partners of the Major Groups always meet with the Bureau of CSD.)

Pursuant to paragraph 29 (of 67/290), the Steering Committee system could be analysed and reviewed and a formal proposal to include the system as a Bureau could be proposed in connection with the review of HLPF itself which is to take place in 2018.

#### **Box 5 - HLPF with a preparatory meeting and a bureau – once proposed**

History is quickly forgotten and distorted, unless it is recorded. The concerns about the strengths and weaknesses of the HLPF that were raised during the 18-22 May (2015) deliberations in Conference room 4 of the UN Headquarters were not new. In fact a number of the substantial elements pointed to in this week, had been raised earlier as being integral to the success of the HLPF. This had taken place already during the spring of 2013.

On Thursday, March 21, 2013, the Permanent Representatives of Brazil, Ms. Maria Luiza Ribeiro Viotti, and the Permanent Representative of Italy, Mr. Cesare Maria Ragolini had called UN members to a meeting to discuss the composition of the High Level Political Forum.

They had proposed the following content for HLPF in a background paper:

- “A preparatory committee of the Forum, with universal membership and an annually rotating Chair among regional groups, shall be convened every year in may for up to 10 working days, including an implementation segment and a thematic segment with one day devoted to the Small Island Development States; the meeting of the preparatory committee shall lead to the adoption of a report with

recommendations to the Economic and Social Council, (preparatory committee as reflected in the chart).

- The report of the Preparatory Committee, as endorsed by the Economic and Social Council and the Presidents Summary of the ministerial session of the Forum will be submitted annually to the General Assembly for appropriate action (reporting line).
- The Forum will hold annual regional preparatory meetings, before the meetings of the preparatory committee, organized by the United Nations Regional Commissions and involving also relevant regional entities and major groups (regional preparatory meetings as reflected in the chart).
- The meetings of the preparatory committee and the meetings of the forum will be held at the United Nations headquarters unless otherwise decided in accordance with established United Nations Rules and practice (venue).
- The Forum shall have a Bureau, elected annually by the preparatory committee and consisting of the Chair of the preparatory committee and one member from the other UN regional groups; the Bureau will define the programme of work of the forum and decide on other organizational and procedural matters (Bureau as reflected in the chart.)”<sup>44</sup>

The paper goes on to set the modalities of the Forum – open and transparent, and being run according to procedural rules of the functioning commissions of ECOSOC, its functions should be those listed under paragraph 85 of the Rio+20 Outcome Document; further the functions should “also assume, review and, where necessary, improve and rationalize all mandates, functions and responsibilities of the Commission on Sustainable Development in order to build on the strengths of the Commission, (CSD Legacy)”.

And finally it states that the Forum shall be serviced by the CSD secretariat.<sup>45</sup>

The first bullet-point in the March 21 document, touched upon the relationship between HLPF and the rest of the UN system. Unlike CSD, which had its governance system clearly delineated in the resolution that established CSD, 67/290 is rife with mandates and tasks, but rather diffuse when it comes to its own governance structure.

Informally, representatives have speculated on how a governance system can be developed around HLPF. That a serious proposal existed back in 2013 to establish a bureau for HLPF is now a forgotten part of history.

## **2.12 – Time for reviews, follow ups and new challenges, sufficient?**

During the May 2015 SDG deliberations, member states also spent time on HLPF.

Surprisingly many governments were explicit in stating the need for strengthening HLPF and, for some, for providing it with more resources. Concern was raised over the limited time allocated to an agenda that everybody realised was growing. HLPF had only 5 plus 3 days according to resolution 67/290.

Creative solutions were offered – ideas floated for a preparatory meeting during spring, much based on the model used by CSD. Other proposed simply to add more days. These delegates

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<sup>44</sup> From Non-exhaustive elements of the format and organizational modalities of the high level political forum, dated March 19, a background document from the Perm reps of Brazil and Italy who led the initial proceedings on the formation of the HLPF

<sup>45</sup> *ibid*

may have been inspired by what was done at the UN Environment Assembly, UNEA. Member states had simply agreed to create a week-long preparatory meeting half a year prior to UNEA itself. Options were discussed, substance and decisions wanting.

Lack of sufficient time has been noted as one of the identified shortcomings of HLPF, most frequently referred to. Although verbally recognised by member states, the two co-chairs received no support in their efforts to find appropriate language guaranteeing a prolongation of HLPF or adding more time, for instance through a preparatory meeting. The issue of time may be turn out to be a crucial element in search of an adequate solution, and something that member states need to revisit in 2018 when HLPF is subject to an extensive review (cfr paragraph 29 of 67/290). Member states have however granted additional time to the HLPF issues albeit in an indirect way.

- Five days are added to deal with the financial and economic issues:
  - The financial issues including those pertaining to MOIs will be subjected to serious deliberations and follow through the proposed five day forum organised by ECOSOC and whose report will feed into the HLPF (according the Addis outcome document).<sup>46</sup>
- Two days are added to deal with science:
  - The Technology Facilitation Mechanism (TFM) will deal with science and technology issues related to the SDGs over a two day period resulting in a report that will feed into the HLPF. The mandate for the TFM is as a multi-stakeholder forum

Thus, seven days may be said to have been added to the HLPF and 2030 Sustainable Development agenda. But the FfD forum has to deal with the whole AAAA.

If we all want to be creatively generous, we may also maintain that parts of or the entire UNEP process may add time to the SDGs and HLPF process as UNEP/UNEA is now the pre-eminent body of the UN to deal with the environmental dimension of sustainable development.

Actually, a few delegations are of the opinion that the meetings of various UN bodies are what prepares the HLPF. This also includes ECOSOC. But for this to be effective, a system wide change will have to take place, and every element of the entire UN family must be given designated responsibilities for the various SDGs. This is not impossible, but may warrant a system like the Task Manager System which was used during CSD. The various units of the UN family were then given specific responsibilities – and charged with reporting back to CSD. As such – FAO was responsible for sustainable agriculture, WHO for sustainability in health, UNESCO for education and so on.

Another version could be to designate the EMG – the Environment Management Group to have a preparatory responsibility for the HLPF. But that would ‘relegate’ sustainable development back to merely the environmental sphere, and as we know – sustainable development consists of three dimensions – an environmental one, a social one and a financial/economic one.

But even if the above be the case, there must be a process to analyze the lessons and messages from the various parts of the UN system and prepare the work of the HLPF. Likewise, the

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<sup>46</sup> A/CONF.227/L.1 “Outcome Document of the Third International Conference on Financing for Development: Addis Ababa Action Agenda”, paragraph 132

HLPF work on national reviews must be prepared. And all this demands resources and a dedicated secretariat with special expertise in the fields of sustainable development with mandates to work on all the SDGs. will be useless Should the HLPF end up like a series of presentations as the ECOSOC National Voluntary Presentations, all the efforts behind the 2030 agenda may be a useless exercise.

The review process will be a dominant feature of the HLPF deliberations, and more often than not, delegates have reiterated and key outcome documents emphasised that the reviews will be of a national, regional, and sub-regional nature. There are five regional UN hubs. Maybe the regional hubs will also be charged with national reviews for their areas? As a consequence regional reviews may also take as much time as three days. Continuing the idea of adding on days to the HLPF process, rather than to the HLPF itself, we may in theory have added another fifteen days (three days per region and five regions.)

While this may enrich the days belonging to the HLP and the 2030 process, and even serve to integrate and include the entire UN system in this process, the end result may baffle us in an unsuspected way, and will prove that HLPF has been afforded too few days to be effective.

Having too few days to carry out the task identified by the agenda may render the HLPF into a slipshod process; too few days, and everything will be done haphazardly and superficially in order to meet the deadline. While being creative and constructing added time to elements of the agenda outside of the HLPF stipulated 5+3 days, as proposed above, leaves us with the following question to answer: The identified processes outside the actual HLPF will produce reports, and they are all mandated to report back to HLPF, how much time will be needed to seriously deal with these reports?

Paragraph 1.6 above refers to five major reports that HLPF will have to deal with:

HLPF shall also take cognizance of other inputs, reports that will be written annually to be dealt with by HLPF –

- An annual SDG Progress report prepared by the Secretary General, with a global indicator framework;
- The Global Sustainable Development Report;
- The summary of the forum of Technology Facilitation Mechanism on Science Technology and Innovation for the SDGs;
- The annual report from the ECOSOC five day special high level meeting with the Bretton Woods institutions, WTO;

In addition there will be the thematic reviews, the regional/national reviews, and several other important items. And these are merely listing the issues – before member states have started their deliberations on these issues and before they have turned their attention to working on the obligatory Ministerial Declaration, and without a discussion on whether a preparatory session is needed – or not. The question is simply this – how much time should be invested by the member states and the UN to give a just and serious political attention to the most daring agenda for the future ever conceived, in order to fulfil paragraph 91 of the Declaration: “We reaffirm our unwavering commitment to achieving this Agenda and utilizing it to the full to transform our world for the better by 2030.”<sup>47</sup>

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<sup>47</sup> Paragraph 91 of “Transforming our world: The 2030 Agenda for Sustainable Development”

A plausible conclusion based on the statements from a number of member states during the SDG deliberations as well as during the summit document deliberations (August 2015) and during HLPF in 2015, is that the ‘time question’ is something that member states would need to revisit in 2018-19, when HLPF is under revision.

An area which is not fully explored is how HLPF can build coherence. In many instances, a HLPF has been designated as the ‘home of the SDGs’ HLPF also represents an opportunity to build coherence in the UN system because (i) the work programmes are to align with the HLPF and (ii) the HLPF is to build on the combined outcomes of the various UN system bodies.

### **2.13 – serving HLPF and member states**

Complex, far reaching, interrelated, touching every aspect of development, environment, rights issues and numerous elements constituting the overarching policies – these are some of the ways in which the 2030 agenda has been described. This paper has repeatedly described the complexity of the agenda and has summarized the vast arrays of topics to be covered, themes to be understood and analysed, tasks and commitments to be implemented. Everybody knows that a successful conference relies on several items where well prepared and researched background papers play a significant role. Without a secretariat this is not possible. Today we take secretariat support for granted. Some say there is too much secretariat, and try to reduce its size ostensibly to save expenses. Others may disagree.

That intergovernmental organisations were endowed with a functioning and permanent secretariat, was a novelty in political life, and emerged only after WWI. If nothing else, history will remind us that what we take for granted, the past was struggling with. In a well-researched book on the League of Nations, the author emphasises the following: “Nothing the league produced was more quietly revolutionary than the international Secretariat. There was no real precedent. When statesmen gathered to transact business before 1914, they did so in private, with at most a secretary or two to keep minutes and draft communiqués. Follow-up was left (or not) to individual states. The League was however to meet regularly and would need a staff. The Covenant thus stipulated that a permanent Secretariat be established...”<sup>48</sup> “... by the early 1920s, Drummond (the SG of the League) had created something entirely new: a truly international bureaucracy, structure by function and not by nationality, loyal to an international charter and capable of efficiently managing a complex programme. This is the structure of the United Nations to this day.”<sup>49</sup> Within the UN – as well as in other intergovernmental organisations – it is the prerogative of the head of the organisation to organise his or her system, the way this leadership sees fit. The only obligation for them is to stay within the mandate given for the specific secretariat. The resolutions that established CSD<sup>50</sup> has a special chapter called “Secretariat support arrangements” one and a half page long, that specifies how the secretariat is to be organised, including with a complete support system, reporting responsibilities, resources and so forth.

Unlike CSD, HLPF has no designated secretariat. Paragraph 23 of resolution 67/290 dealing with secretariat support to HLPF states:

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<sup>48</sup> P. 46 - “The Guardians – The League of Nations and the crisis of empire” Susan Pedersen, Oxford University Press, 2015

<sup>49</sup> Ibid, p 7

<sup>50</sup> E/1993/207 of February 12, 1993 and A/RES/47/191 of 29 January, 1993

“Decides that the forum shall be supported by the Department of Economic and Social Affairs of the Secretariat in close cooperation with all relevant entities of the United Nations system, including funds and programmes, multilateral financial and trade institutions, the secretariats of the three Rio conventions and other relevant treaty bodies and international organizations within their respective mandates;”

During the May SDG meeting in 2015 and during the HLPF session in July the same year, several delegates talked about increasing resources to HLPF, and some specifically talked about strengthening the secretariat. Several options were mentioned, but they remained options.

With the growth of the 2030 sustainable development agenda it will be imperative to have an efficient and knowledgeable secretariat with a capacity to write and research expertly on all the SDGs, reviews, science issues. DSD today is the unit of UNDESA that served CSD, and houses a repository of expertise, stored and in human capacity (see Annex 3 for a secretariat overview of tasks and subject matter dealt with). Reducing it would seem to be counterproductive, and probably not in line with the spirit of the text in the 2015 Summit Declaration. Swerving 17 SDG and 169 targets with a vast array of topics, requires a secretariat with equal expertise. Not only shall this secretariat serve all the 193 countries with information on the new agenda, it is tasked to do so 365 days a year.

### **III - ECOSOC AND HLPF**

#### **3.0 - ECOSOC – the second largest Charter Body of the UN**

The HLPF universe will always revolve around all UN bodies, with at times concentrated focus on two key UN Charter Bodies – the UN General Assembly and the UN Economic and Social Council, ECOSOC. The relationship between the UNGA and HLPF appears less complicated than its relationship with ECOSOC. One issue that has been frequently discussed by member states, is the issue of HLPF universality vs ECOSOC's 58 nation membership status. This paper has offered views on this (see paragraphs XXX).

With its broad mandate ECOSOC's purview extends to over 70 per cent of the human and financial resources of the entire UN system.”<sup>51</sup> The Charter of the UN established ECOSOC as one of its principal bodies. As a Charter Body it shares the highest tier at the UN, hierarchically second only to the General Assembly. ECOSOC's existence, mandate and work areas are defined by Chapter X, (Articles 61 – 72) of the Charter of the United Nations.

One of the most thorough and lucid analysis of ECOSOC's work since the founding days of the UN was written by two UN stalwarts, Brian Urquhart and Erskine Childers and published in 1994<sup>52</sup>. One conclusion that can be drawn from this study, is that ECOSOC has often been overburdened and underfunded. Governments have been generous in allocating tasks to ECOSOC. The debate around UN GA resolution 57/270 B (2003) named “Integrated and coordinated implementation of and follow-up to the outcomes of the major United Nations conferences and summits in the economic and social fields” further increased government's eagerness to give ECOSOC increased roles. “Speakers (...in the General Assembly debate...) emphasized that the substantive review of conferences must be carried out by functional

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<sup>51</sup> From ECOSOC's website

<sup>52</sup> Childers and Urquhart “Renewing the United Nations System”, Erskine Childers with Brian Urquhart, Development Dialogue, Dag Hammarskjöld Foundation, 1994, Uppsala, Sweden



commissions (of ECOSOC). They strongly supported the mandate of resolution 57/270B that the functional commissions would urgently examine their methods of work in order to better pursue the implementation of the outcomes of major UN conferences and summits.”<sup>53</sup> System wide coordination is one of the key responsibilities of ECOSOC, and coordinating all the new elements added to the UN over time, has often fallen under the purview of ECOSOC.

Several studies have also shown that ECOSOC has been quite successful in promoting the development debate, often identifying emerging issues and offering guidelines for policy makers. Member states have viewed ECOSOC as an impartial and objective meeting place and some have asserted that the non-binding nature of decisions and resolutions from the ECOSOC has been an asset in furthering policy debate. Such debate has contributed substantially to its considerable achievements in the development of ideas – obviously held within its mandate of economic and social issues.<sup>54</sup>

“ECOSOC – at least up to 2005, has changed little since the 1950s and 1960s. Similarities can be found in the agendas, the level of representation, the tone of the discussion reflected in the official records, the capacity to engage with the specialised agencies, the degree of participation of NGOs, the quality of coordination of ECOSOC’s subsidiary bodies, and the content of the decisions and resolutions adopted. Thus the official records suggest that an idealized ECOSOC that offered clear policy guidance and coordinated the many fractious parts of the United Nations never existed.”<sup>55</sup> Others may disagree and say ECOSOC has been over-reformed, often caused by budgetary rather than efficiency concerns. Even though ECOSOC remit extends to over 70% of the UN (resources . . . ), it must be recognized that its actual impact in coordinating and guiding the UN system has remained quite limited. This applies in particular to specialized agencies which, in the views of governments themselves, are mainly answerable to their own governing bodies.

ECOSOC is the only principal organ to be enlarged twice and the present number of its membership is thrice that of its original size. It is a well-accepted adage that ‘with size comes inertia’. This general criticism has been levelled at the UN more often than not, and despite its almost cliché like overtones, it holds some truth. But the size in relation to ECOSOC is more in terms of its growing work-agenda than its growth in membership.

### **3.1 - ECOSOC’s responsibility in sustainable development**

A more pervasive and recurring concern among member states today, can be formulated this way: “Will ECOSOC lose its *raison d’être* and remain an empty shell without any tasks if HLPF will be the main coordinator of the SDGs and the Post 2015 Development Agenda?”

The question touches on several important areas, and must be given serious attention. However, member states have in many ways already answered this question by actions they have taken over the past few weeks, and in particular with the proposals listed in the Action Agenda from the Addis Ababa conference on Financing for Development in July this year.

Even if ECOSOC long has had a role in FfD, paragraph 132 of the AAAA document lands a heavy, politically important, time consuming and strenuous task in the ECOSOC camp – that

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<sup>53</sup> DESA News Volume 7, no 6, November- December 2003 <http://www.un.org/esa/desa/desaNews/desa76.html>

<sup>54</sup> See for instance Richard Jolly, Louis Emmerij, Dharam Ghai and Frédéric Lapeyre: UN Contributions to Development Thinking and Practice, Bloomington: Indiana University Press, 2004

<sup>55</sup> Gert Rosenthal, p.141 the Oxford Handbook on United Nations, Thomas G. Weiss and Sam Daws, Oxford University Press, 2008

of dealing with the financial and economic dimension of sustainable development and hence also of the SDGs.

The entire paragraph 132 reads:

“We commit to staying engaged to this important agenda through a dedicated and strengthened follow-up process that will use existing institutional arrangements and will include an annual Economic and Social Council forum on financing for development follow-up with universal, intergovernmental participation, to be launched during the Council’s current cycle. The forum’s modalities of participation will be those utilized at the international conferences on financing for development. The forum will consist of up to five days, one of which will be the special high-level meeting with the Bretton Woods institutions, WTO and UNCTAD, as well as additional institutional and other stakeholders depending on the priorities and scope of the meeting; up to four days will be dedicated to discussing the follow-up and review of the financing for development outcomes and the means of implementation of the post-2015 development agenda. Its intergovernmentally agreed conclusions and recommendations will be fed into the overall follow-up and review of the implementation of the post-2015 development agenda in the high-level political forum on sustainable development. The deliberations of the Development Cooperation Forum, according to its mandate, will also be taken into account. The High-level Dialogue on Financing for Development of the General Assembly will be held back-to-back with the high-level political forum under the auspices of the General Assembly when the high-level political forum is convened every four years.”<sup>56</sup>

The key elements of this proposal are:

- ECOSOC will conduct an annual five day, high level meeting with the Bretton Woods Institutions, WTO and UNCTAD, including invited relevant stakeholders, as appropriate;
- Four of the five days will be dedicated to discussing follow up and review of means of implementation of the post 2015 development agenda<sup>57</sup>;
- The Deliberations of the Development Cooperation Forum will be taken into account
- The intergovernmentally agreed conclusions and recommendations from these five days will be fed into the overall follow-up and review of the 2030 Agenda for Sustainable development that are undertaken by HLPF;
- Every four years there will be a High Level Dialogue on Financing for Development of the GA, held back to back with the UNGA session on HLPF;

Member states have in with this paragraph emphasised the importance of the finance/economy dimension of sustainable development, and found a way to integrate these concerns into the overall work on sustainable development carried out by HLPF. This decision has accomplished several tasks:

- Member states have given ECOSOC a hugely important and time consuming role consistent with the original tasks envisaged for ECOSOC 70 years ago. That task was making sure that ECOSOC was the pre-eminent body within the UN family to deal with economic matters;
- The decision also adds more days to the annual SDG deliberations without upsetting any previous agreement, and is consistent with the 8+3 days length of the HLPF;

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<sup>56</sup> A/CONF.227/L.1 “Outcome Document of the Third International Conference on Financing for Development: Addis Ababa Action Agenda”, paragraph 132

<sup>57</sup> Now named “Transforming our world: The 2030 Agenda for Sustainable Development”

- And the decision is also completely consistent with ECOSPC resolution 61/16;
- And finally, the decision gives ECOSOC a key responsibility to deal with the economic dimension of sustainable development;
- What is more, this decision is also fully compatible with decisions taken in ECOSOC resolution 61/16.

The historical dimensions referred to here, may have been largely forgotten, but a reminder of this history in the UN 70 year celebration may be warranted.

### **3.2 - ECOSOC's work priority according to its original mandate**

Revisiting history will actually reveal that the agreement on paragraph 132 from AAAA reaches back to the original thoughts and decisions about the mandate and work area of ECOSOC. Whether it would be possible for the development of the global policy on economic and financial policy to be conducted by ECOSOC is a challenge that the UN member nations need to take seriously

The book on ECOSOC, written by the two UN stalwarts, Brian Urquhart<sup>58</sup> and Erskine Childers<sup>59</sup> and published in 1994<sup>60</sup> trace the early days of ECOSOC and the discussion about its real work area. A look at the deliberations carried out by the UN founding governments, that took place at the UN in the late 1940s, gives an interesting insight in how governments wanted to understand economics in the context of the UN: "In Committee 11/3 it was agreed that 'economic' was to be interpreted to include international trade, finance, communications and transport, economic reconstruction and, under 'economic problems', international access to raw materials, and capital goods."<sup>61</sup> Urquhart and Childers use this to conclude that "- the UN was intended by governments as the world's centrepiece for the formulation of global macro-economic policy"<sup>62</sup>. And ECOSOC would be instrumental in carrying out that mandate.

Article 55 of the Charter spells out the responsibility of the UN in the economic and social field. The UN shall, according to this paragraph promote:

- Higher standards of living, full employment, and conditions of economic and social progress and development;
- Solutions of international economic, social, health and related problems; and international cultural and educational cooperation; and
- Universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.

But as Childers and Urquhart show, at the beginning of the 1950s, "the separatism (from the UN) of the Bretton Woods institutions was consolidated. The long process of diverting the

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<sup>58</sup> UN Civil Servant, 1945 – 1986, founding of the UN as member of the UK delegation, Under Secretary General for Special Political Affairs, 1975 - 1985

<sup>59</sup> UN Civil servant, 1967-89, in that period he served as Director of Information, UNDP from 1975 – 1988, also worked with Brian Urquhart on UN reform

<sup>60</sup> Childers and Urquhart "Renewing the United Nations System", Erskine Childers with Brian Urquhart, Development Dialogue, Dag Hammarskjöld Foundation, 1994, Uppsala, Sweden

<sup>61</sup> Report of Rapporteur of Committee 11/3, Doe. 861111/3/55(1); and Revised Report of the Rapporteur of Commission II to the Plenary Session, Doe. 1180, 11/18(1), United Nations Conference on International Organization, 1945 also quoted in Urquhart and Childers

<sup>62</sup> P 59 "Renewing the United Nations System", Erskine Childers with Brian Urquhart, Development Dialogue, Dag Hammarskjöld Foundation, 1994, Uppsala, Sweden

United Nations away from macro-economic policy formulation and into development assistance had begun.”<sup>63</sup>

Childers and Urquhart posit that as the specialized agencies were not mentioned in this paragraph (55 of the Charter), it followed that the original thinking intended the UN itself to handle economic and financial issues. By giving fairly detailed accounts from the history of ECOSOC during the first five, six years of the UN’s existence, they demonstrated that a number of initiatives were taken by governments to strengthen ECOSOCs authority in the socio-economic field, and conclude by stating: “... this indicates that the founding governments (of the UN) intended ECOSOC to be the ‘economic security council’ that is now mooted, fifty years later as some sort of additional body.”<sup>64</sup>

What is of interest in political history to note, is that whereas governments made serious efforts to say they wanted a democratic system to govern the global economy, the political reality was defined by those countries and entities with too many economic interests at stake to leave decision making in economic matters to democratic and egalitarian institutions. The banks, the finance institutions, the multilateral companies, and the big powers wanted a tight control over the economy, and made this position obvious to everyone in the immediate post WWII years.

Professor of economics and once Minister of Foreign Affairs of Guatemala, Gert Rosenthal<sup>65</sup> writes that: “A close reading of the Charter suggests that ECOSOC was never intended to be the centre of global policy coordination. Rather, the main powers emerging from World War two, preferred to concentrate global policymaking in organizations that reflected the weight of world affairs. The right to exert a veto in the Security Council provided such a UN mechanism in the area of peace and security, while in the area of economic policy making the weighted voting arrangements at the Bretton Woods institutions made the World Bank and the IMF far more attractive alternatives to the UN General Assembly and ECOSOC, where each sovereign state has one vote.”<sup>66</sup>

One conclusion that may be drawn from these and other analyses is that those nations that at any given moment in time seem to be in control of world economy, have little or no political interest in allowing a democratically structured, intergovernmental body like ECOSOC to have a major say over economic and financial. This is one of the challenges that ECOSOC may have to face and struggle with in order to successfully implement the decisions taken at the FfD conference in Addis Ababa this July.

“Economic” thus goes beyond FfD. We should refer to the dialogue of ECOSOC has long conducted dialogues with financial and trade institutions on trends in the world economy. As Urquhart and Childers note, ECOSOC does still not have a functional commission dealing with economic aspects, indicating that it will deliver itself on this role.

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<sup>63</sup> *ibid*

<sup>64</sup> Pages 56, 57, 58 “Renewing the United Nations System”, Erskine Childers with Brian Urquhart, Development Dialogue, Dag Hammarskjöld Foundation, 1994, Uppsala, Sweden

<sup>65</sup> Minister of foreign Affairs 2006 - 2008

<sup>66</sup> Gert Rosenthal, p140: The Economic and Social Council in , the Oxford Handbook on United Nations, Thomas G. Weiss and Sam Daws, Oxford University Press, 2008,

**Box 6 -**

**ECOSOC was slated to oversee the global monetary streams – Childers and Urquhart conclude on ECOSOC and finance**

It is perceived as a truism today, saying that money and financial matters are and have to be discussed at the IMF and the World Bank. That IMF and the World Bank are the correct places in the intergovernmental system dealing with financial and economic matters, has persistently been asserted by the major industrial powers of the day. The operational responsibility for formulating approaches to debt issues should lie elsewhere than at the UN as such matters belong to the Bretton Woods Institutions, they say.<sup>67</sup> But it was not always so.

Childers and Urquhart again: “Refinement of the details after San Francisco was delegated to the Preparatory Commission (of further developing the UN). Its Executive Committee formulated specific recommendations for the Commission to report to the first session of the General Assembly.”<sup>68</sup> These reports confirm the central mandate that the UN was supposed to have in global macro-economic policy formulation and coordination, and spell out the role that the UN should have been playing ever since.

As Erskine and Childers show, it was accordingly recommended that ECOSOC establish, at its first session, a number of commissions, including an Economic and Employment Commission. This commission would assist ECOSOC 'in fulfilling its responsibilities in the economic field under Article 55 of the Charter', another clear evidence of the intended central UN role. It would advise the (ECOSOC) Council on:

- a. the promotion of world-wide full employment and the coordination of national full employment policies;
- b. the prevention of economic instability;
- c. urgent problems of economic reconstruction;
- d. economic development of under-developed areas."

Two organizational units dealing with macro-economics were to have been established under the tutelage of ECOSOC: An Economic and Employment Commission and a Balance of Payments Committee.

A third body was also proposed, an 'Economic Development Committee'. Again historical documents confirm the role UN was supposed to have had in leading on international policy formulation for economic and financial problems that are extremely important today:

- a. the methods of increasing production, productivity and levels of consumption in the less-developed regions of the world;
- b. the effects of industrialization and technological change on world economic
- c. conditions, and the adjustments required; and
- d. the coordination of the activities of the commissions or specialized agencies concerned.

A final quote from Erskine and Childers on this matter is also of interest in relationship to the outcome document from Addis Ababa: “From all of the foregoing it is clear that the UN was intended by governments as the world's Centrepiece for the formulation of global macro-economic policy. The subsequent record shows an abysmal failure by governments to fulfil their own original intentions”.<sup>69</sup>

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<sup>67</sup> The External Debt Crisis and Development, 17 October 1986, Second Committee; US Mission Press Release USUN 118-(86) of same date.

<sup>68</sup> p 57“Renewing the United Nations System”, Erskine Childers with Brian Urquhart, Development Dialogue, Dag Hammarskjöld Foundation, 1994, Uppsala, Sweden

<sup>69</sup> Ibid, p 58

### 3.3 - ECOSOC with new tasks to coordinate monetary elements of the 2030 agenda

A rhetorical question about ECOSOC was asked above, ‘would ECOSOC become an empty shell if HLPF was given the central and all-encompassing role with sustainable development within the UN?’

After having looked at the many tasks ECOSOC has been given by the Addis Outcome Document, the answer is clearly no. Dealing with the economic/financial dimension of sustainable development resulting in a serious week-long meeting with the leading financial institutions of the world is no small matter. In addition to the five day meeting to coordinate with the finance institutions, an infrastructure forum will be established as well as serious efforts to establish global tax revenue systems. The Addis outcome document is rife with tasks for ECOSOC. The following box illustrates a few of the tasks given ECOSOC by the Addis conference.

#### **Box 7 – an outcome from the AAAA conference**

- A new infrastructure forum to be established:
  - From paragraphs 14 (of the AAAA outcome document): “A ... key pillar to meet the sustainable development goals, a global infrastructure forum building on existing multilateral collaboration mechanisms, led by the multilateral development banks will be established. This forum will meet periodically to improve alignment and coordination among established and new infrastructure initiatives, multilateral and national development banks, United Nations agencies, and national institutions, development partners and the private sector... It will highlight opportunities for investment and cooperation, and work to ensure that investments are environmentally, socially and economically sustainable.”
- A system to develop tax revenues, globally
  - From paragraphs 22 – “...We commit to enhancing revenue administration through modernized, progressive tax systems, improved tax policy and more efficient tax collection.
  - From paragraphs 29 – “We emphasize the importance of inclusive cooperation and dialogue among national tax authorities on international tax matters. In this regard, we welcome the work of the Committee of Experts on International Cooperation in Tax Matters, including its subcommittees.... Members of the Committee will continue to report directly to the Economic and Social Council. We continue to urge Member States to support the Committee and its subsidiary bodies through the voluntary trust fund, to enable the Committee to fulfil its mandate, including supporting the increased participation of developing country experts at subcommittee meetings.

### 3.4 - ECOSOC and its “new reality” – the finance meeting to feed into HLPF

Perhaps delegates in Addis were aware of their historic decision, perhaps not. It is tempting to ask how many member states have sat down and analysed the enormity of the decision expressed in paragraph 132 of the Addis Action Agenda. As pointed to above, relationships between the UN Headquarters in New York and the Finance headquarters around the Bretton Woods Institutions in Washington DC have often been strained. More often than not, the economists in DC have won over the politicians in New York. Every UN Secretary General

has written about this issue in their memoirs. Perhaps paragraph 132 now represents a new chapter in this relationship, where other aspects of the economy than simply monetary matters will of necessity have to be integrated in thinking, planning and implementation.

What is interesting to note, of course, is the fact that similar provisions for ECOSOC were already made in the Monterrey consensus. The decision made at Addis does in many ways repeat what is already agreed – formally speaking. In practice, the finance issues are directed out of Washington and the finance institutions there.

A growing number of economists have emphasised the challenges of integrating the economic/financial dimension of sustainable development in all planning and implementation. The question therefore remains to be asked and answered: Will this role for ECOSOC, again reiterate, be enough to embark on integrating financial issues with sustainable developmental issues?

ECOSOC has been charged with this coordination as well as preparing a report from this five day meeting to be considered and further integrated into the HLPF. Even if ECOSOC is supported here by the FfD office, a serious question to be considered is whether the present ECOSOC and its support system have the capacity to do this. Its secretariat seems more geared to deal with the traditional thinking about ECOSOC – that of system wide coordination – rather than being equipped for this new challenge (see ANNEX 4 for an overview of the ECOSOC secretariat).

Other important roles of ECOSOC in the follow-up to Agenda 2030 relate to ECOSOC Charter function to coordinate the UN system. The link to humanitarian affairs is also an important focus of ECOSOC.

Other important roles of ECOSOC in the follow-up to Agenda 2030 relate to ECOSOC Charter function to coordinate the entire UN system, and not the least all the Specialized Agencies.

The link to humanitarian affairs is also an important focus of ECOSOC All this just to emphasize, ECOSOC does indeed have a formidable agenda to deal with on a regular basis.

Maybe member states should seriously consider strengthening the ECOSOC secretariat and provide it with necessary expertise to take on the task of coordinating the nexus of finance/economy/trade and make it relevant to the MOI of the SDGs rather than merging it with the present DSD (see also 2.14 above)

## **IV - HLPF'S ARDUOUS ROAD TO AN INSTITUTIONAL IDENTITY – ON SUBSIDIARITY AND 'UNDER THE AUSPICES OF'**

### **4.0 – Introducing the principle of subsidiarity**

By the authority of the August 11 consensus version of the document “Transforming Our World: The 2030 Agenda for Sustainable Development” we may now safely refer to HLPF as a UN organisational construct having a ‘central role’ in the UN system working on sustainable development, the SDGs and their targets. Since its inception, HLPF has been graced with several sobriquets, the most commonly used has been an ‘organisational hybrid’. The intent behind this label was to capture the innovative nature of HLPF. Alas, that designation did not bring more clarity to understanding HLPF and what it is all about. This paper has argued that HLPF should be labelled a ‘UN body’. The arguments have been that the establishment of HLPF has followed proper procedure and rules, and used one of the

mechanisms that is central to the organizational resilience of the UN – the principle of subsidiarity. Understanding this principle and how it is utilized throughout the UN system, will also bring clarity to the organisational position of HLPF; how HLPF relates to the GA and to ECOSOC, and how it, as a body with organizational autonomy with authority to make recommendations strengthens and supports ECOSOC and the UNGA; these are some of the issues that will be discussed in reference to the formulation “under the auspices of”.

#### **4.1 – HLPF in 2014 – a small beginning**

Lack of organizational clarity, hampered the understanding of HLPF as an organizational unit. During the 2014 HLPF meeting in July, the new body seemed to be without a proper identity, as all meetings then were run under the emblem of ECOSOC, its outcomes even archived without references to HLPF, but with references to ECOSOC. If nothing else, a few delegates observed, this was a breach with UN nomenclature. Pointing to its predecessor, the CSD, they emphasised that this Commission, which according to its mandating resolution was referred to as “a high-level Commission on Sustainable Development as a functional commission of the Council (ECOSOC), in accordance with Article 68 of the Charter of the United Nations,”<sup>70</sup> always had its own archival references as it then was the preeminent body within the UN dealing with sustainable development, a role which by 2013 had been conferred to HLPF. These observers referred to what took place with HLPF during its session in 2014 as breach of protocol, and based this observation on paragraph 84 of the Rio+20 Outcome Document which explicitly positions HLPF on CSD experiences including its many decisions<sup>71</sup>. Closing down CSD in 2013 did not make CSD decisions nil and void; all CSD decisions were after all, presented to ECOSOC and adopted through relevant resolutions by the UN General Assembly. Accordingly they opined, the HLPF 2014 session should have been conducted under its own name with its own archival references as HLPF was now the ‘legal successor’ to CSD administrating and carrying out its decisions.

#### **4.2 – the 2015 HLPF - a cautious continuation**

The HLPF session in 2015 was in many ways similar to the preceding session in 2014, but the discussion among participants in the plenaries, and in particular from member states, reflected much the discussion and ideas that had surfaced back in May when member states had focussed on the HLPF.

Delegates often used references to the HLPF resolution and quoting the mandates sections stated that HLPF will be crucial in translating the vision of the post-2015 development agenda into action. Even though the forum was less formal than the May session on the SDGs and HLPF, and several statements reflected what may be named as “thinking out loud” – and hence not representing a nation’s political position – the HLPF session during 2015 was in many ways stockpiling ideas about HLPF that had already been identified.

Alas, a few delegates mused informally in the Vienna Cafe, the HLPF this year and last year (2014) have just been a week-long side event. And if we do not add substantially to the HLPF structure and profile, we have wasted a lot of creative energy in establishing a new institution at the UN. What these additions should have been, were not elaborated.

#### **4.3 – 2013 to 2016, the pilot years**

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<sup>70</sup> Para 2 of A/RES/47/191

<sup>71</sup> A/RES/66/288



The explanation behind the way the 2014 HLPF session and 2015 HLPF session had been run, may be the following: The period from 2013 to 2016 may be labelled a transition period for HLPF, as 67/290 stipulates that various functions of the UN relating to sustainable development must be phased out from other parts of the UN and integrated into HLPF by 2016. For instance, the AMR, the Annual Ministerial Review, earlier under ECOSOC, is to be replaced by functions performed by HLPF within 2016. It is further expected that a full-fledged Global Sustainable Development Report, GSDR, will be presented in 2016; the review system will be operational only in 2016 after the UN has decided on and agreed to indicators to be used in the reviews, etc. As the period 2013 - 2016 can be defined as pilot years, the UN system and member states have been allowed to 'experiment' with the new construct, and in so doing, practices that were not deemed formally correct, would not be considered as precedents and can accordingly be terminated.

But by manoeuvring the HLPF into the position it was given in 2014 vis-a-vis ECOSOC, does that mean that it would be correct to interpret 'under the auspices of ECOSOC' as being synonymous with "integrating HLPF into ECOSOC for four years and then integrated into the UN GA during the fourth year?"

"Integrating something into" and having "something under the auspices of" are two concepts that are hardly synonymous. The two concepts also have widely different meanings when used in formal and political contexts both inside and outside of the UN system.

#### **4.4 - UN nomenclature and procedural solutions**

The UN system is a continual experiment in global, multi-governmental political collaboration, and has given the world an institutional opportunity to find solutions to formal issues that in the past more often than not, planted barriers in the way of political progress. After 70 years of existence, the UN is altered significantly in many ways, but is still based on some fundamental agreements signed at the founding conference of the UN back in 1945. The spirit of the Charter is for instance reawakened in the Summit Declaration of September 2015.

It is the principle of subsidiarity that has been identified as the key mechanism to allow for the operational creativity which gives the UN its political and structural resilience. And while respecting the Charter of the UN, a host of new constructs are established to deal with the ever growing agenda as new, political issues are identified: new functional commissions, standing committees, expert bodies, ad hoc commissions and ad hoc committees see the day of light to deal with these emerging issues – and they are all subsidiary bodies of one of the Charter bodies. What is more interesting, they all have varying degrees of formal standing within the UN system.

The political resilience of the UN and its structure is expressed through a variety of procedural and operational solutions, and before we can readily understand and accept the novelty of HLPF, we need to revisit and explore some of these 'solutions'.

#### **4.5 - 'Under the auspices of' and 'the principle of subsidiarity'**

The hierarchical identity for HLPF is given in paragraph 3 (of 67/290): "*Also decides that the meetings of the forum shall be convened under the auspices of the General Assembly and of the Economic and Social Council.*" As stated, HLPF has two masters, the UNGA and ECOSOC. This could be seen as an elegant way to solve a problem that has always disturbed

a number of states within the UN system and has returned to the UN throughout its entire existence: how can decisions made by a body within the UN consisting of fewer members than the entire UN membership, be reconciled with the authority of the entire universal membership body of the UN? This is solved in various ways throughout the UN history – the simplest way is by subsidiary bodies sending their reports to the General Assembly and the GA accepting the reports. The other way is through what is known as the principle of subsidiarity.

Sustainable development was from its inception in 1987<sup>72</sup> defined and understood as a universal issue, which would affect all, and be the concern for all. Still, many member states of the UN were then of the opinion that a smaller body of the UN should deal with these issues on behalf of the entire global community of states. During heated debates at the fourth Preparatory Meeting leading up to the UN Conference on Environment and Development, UNCED, in 1992, the issue of universal authority of the UN with its entire membership was pitted against the need as some felt, to establish a smaller, leaner body to deal with the global sustainable development issues.

The issue in 1992 was - how can a universal issue such as sustainable development which was to be dealt with by all member states be formally decided by for instance ECOSOC with its 54 nation membership? Could ECOSOC with its supreme position as a Charter Body override a commission with universal attendance? This apparent conflict of formal decision-making has re-emerged in the context of HLPF, and is one of several Gordian knots in the HLPF resolution that needs to be unwound, and not simply cut off by sharp swords or wits. By combining dual ownership of HLPF – i.e. the UN GA and ECOSOC and by employing the principle of subsidiarity – an autonomous body within the UN system, HLPF, has been established with universal membership and decision making authorities, that will coordinate internally with the UN system through established procedures via ECOSOC and address substance and deal with member states. Through such an understanding, 67/290 harnesses the experiences of CSD while simultaneously being modern and pointing to the future. In other words, the decision by member states at the UN General Assembly in July 2013 to agree to resolution 67/290 elegantly and formally basing their decision on paragraphs 84, 85 and 86 of the Rio+20 Outcome Document, gives HLPF two ‘masters’ – and is an attempt to combine the universality of the GA with the responsibilities of ECOSOC. There are however, a few more elements that need to be defined and added to the HLPF equation, before this conclusion can be made.

#### **4.6 - HLPF firmly within the formalities of the UN**

Positioning a body under the auspices of one of the Charter bodies of the UN is nothing new. Establishing a ‘new’ UN body ‘under the auspices of’ is in fact in complete harmony with directions embedded in the Charter of the UN. This organisational practice – establishing new bodies in the UN, or positioning bodies through establishing functional commissions, standing committees or ad hoc committees and providing them with operational mandates - is known as ‘the principle of subsidiarity’ and it has permeated the entire UN structure from its very start in 1945. Several observers have referred to this principle as the ‘sine qua non’ of UN functionality. The UN system is rife with subsidiary bodies under the UN General Assembly as well as under ECOSOC, and HLPF positioned under the auspices of the UN

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<sup>72</sup> Presented to the UN General Assembly by then Prime Minister of Norway, Ms. Gro Harlem Brundtland in the first large global report on sustainable development Our Common Future

General Assembly and ECOSOC is established according to this principle, (see Boxes 3, 4, 5 and 6).

The phrase ‘under the auspices of’ usually introduces the principle of ‘subsidiarity’, and as this phrase and its ensuing concept is at the heart of understanding HLPF, taking a closer look at these concepts may give us a better understanding of HLPF, its formal position including its ensuing powers – or lack thereof, as well as how it relates to ECOSOC and the UNGA.

**Box 8 - Explaining the phrase: under the auspices of:**

*‘Under the auspices of’* means simply ‘with the support, help, approval or protection of’ and these functions are usually rendered by an institution’.

*‘Subsidiarity’* is defined as the principle that a central authority should have a subsidiary function performing only those tasks which cannot be performed at a more local level. In other words, it is a principle of political, economic or social organization which states that functions which subordinate or local organizations perform effectively belong more properly to them than to a dominant central organization.

*‘Under the auspices of’* is a term frequently used within the UN system:

Article 22 of the Charter states that: *“The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.”*

Article 68 of the Charter states that: *“The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.”*

Further clarification may be needed: ‘Under the auspices of’ is a general term, often utilized in texts to introduce generic contexts. There are numerous examples in the vast repository of formal texts in the UN to illustrate this point. For instance, during the 1960s, the UN Law Commission dealt in great detail with decisions and treaties that were made under the ‘auspices of the League of Nations’ to decide their relevance to the UN and its member states. Another example employing the phrase is the 25 Water-related Centres that are functioning under the auspices of UNESCO. They work on relevant thematic and geographic priorities in their areas of expertise. Since Member States have realized the potential of these centres, the network has been rapidly expanding – under the auspices of UNESCO.

The UN General Assembly and ECOSOC have a host of subsidiary organs –functional commissions, standing committees, ad hoc committees and boards. The following boxes will give a small insight into the plethora of subsidiary bodies within the UN system that falls under the UNGA and ECOSOC.

#### **4.7 – CSD was established under the auspices of ECOSOC**

Following the principle of subsidiarity and the rationale behind the decision to establish HLPF, it would be correct to assume that HLPF with its mandate and tasks is positioned and constructed within the UN system in such a way that it will deal with and handle issues of sustainable development much better and more appropriately than ECOSOC and the UNGA.

What makes HLPF different from CSD? The gist of the Rio+20 Outcome Document was to establish a body within the UN which was better equipped with more political clout to handle sustainable development than its predecessor CSD was. It is worth remembering how CSD was established. According to the resolution, the UNGA “Requests the Economic and Social Council, at its organizational session for 1993, to set up a high-level Commission on Sustainable Development as a functional commission of the Council, in accordance with Article 68 of the Charter of the United Nations”. As can be seen, the establishment of CSD falls within the purview of the Charter of the UN as spelled out by Article 68 of the Charter: *“The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.”* This is one of the legal underpinnings of the principle of subsidiarity, which also allows for the following interpretation: CSD was also established under the auspices of ECOSOC. But CSD was not integrated into the Council, did not undermine its authority or deprive it of tasks and agenda points. CSD was also strengthened institutionally by a Bureau. This also did not subtract any authority from ECOSOC. Why then should HLPF established ‘under the auspices of ECOSOC’ threaten the existence of ECOSOC, let alone undermine its authority?

Article 22 and Article 68 of the Charter were central points during the negotiations that took place during the fourth Prep Com in New York in 1992 leading up to the first UN conference on sustainable development in Rio, UNCED, that same year. Those arguing for the establishment of a functional commission under the auspices of ECOSOC to deal with sustainable development referred to Article 68 of the Charter and opined that a large universal body would be counterproductive and add to the growing administrative system of the UN and that a high level segment of ECOSOC would suffice. Those member states arguing for a new body under the auspices of UNGA referred to Article 22 of the Charter, and held that a high level commission under the GA would be necessary and should report on substance directly to the UNGA and on coordination to ECOSOC.

Locked in verbal combat, a compromise position was reached at UNCED in 1992 through skilful negotiations by the PM from Malaysia, Ambassador Razali Ismail: This provided for a high level commission for sustainable development, CSD, which however became a functional commission under the auspices of ECOSOC, established according to Article 68 of the Charter, and with a High-Level Advisory Board and with a designated secretariat to support it. At the UNGA’s 47<sup>th</sup> session, CSD was established with a membership of 53 nations. The number was arrived at, according to precedent, indicating that it would be formally incorrect to establish a body with more members than ECOSOC.<sup>73</sup> In the end, CSD became a functional subsidiary commission of ECOSOC.

The UNGA and ECOSOC system offers a variety of governance structures – for a near complete overview of this, see ANNEX 5

#### **4.8 – HLPF- a commission? a decision making body? Or ...**

Formally speaking, one of the major differences between CSD and HLPF is that HLPF has been endowed with two ‘masters’, ECOSOC and UNGA. This was meant to give HLPF more political clout than CSD. Taking into consideration the spirit and nature of paragraphs 84, 85 and 86 of the Rio+20 Outcome Document, it seems that HLPF has been attributed inherent authority to decide on sustainable development issues at the UN. It would

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<sup>73</sup> ‘Greening International Institutions’ Jacob Werksman. This principle is not religiously adhered to as UNEP had 58 members

be important here to remember that the high level political forum, written as it was in this document, in smaller case letters was a) - to be considered a placeholder concept to be further developed after the conference was over, and b) - expressing the compromise position between a council for sustainable development and a much strengthened, cogent and preeminent institution that CSD had been.

## **V - CONCLUSION**

And as we have seen, HLPF is not only of ECOSOC, according to Article 68 of the Charter, but of the GA as well. This therefore makes the HLPF a subsidiary organ of the UNGA under Article 22 of the Charter, and as such endowed with serious political authority; hence, as has been stated earlier, a novelty in the UN system. It would be plausible to conclude: HLPF is not a functional commission as CSD was; it is also not a forum, a committee, a process or a platform. It is however designed to be an autonomous decision-making body, yet it lacks a few institutional mechanisms to be fully operative in that context (see paragraphs 2.8 and 2.9) Its institutional design falls completely within UN procedure, and when fully operative with a bureau and recognised decision making powers , it will modernise the UN, and strengthen ECOSOC and the UNGA..

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### **ADDENDUM WITH AN ATTEMPT TO CLARIFY THE ISSUE OF SUBSIDIARITY.**

During my research and interviews with a variety of stakeholders, I found we often discussed intricate relationships within the UN system. One that kept repeating itself was the issue of ‘subsidiarity’.

It is a formal concept, complicated to some, cherished by others, but an essential element of intergovernmental systems. The following is added to the discussion on HLPF to help assist us in making HLPF into a functional body within the UN system.

#### **The principle of subsidiarity was used by member states to craft HLPF and 67/290**

Subsidiarity is a political concept and as it is regarded as a sine qua non of the UN, it identifies the level most appropriate to exercise decision-making powers within the UN to attain the common good of its purposes. According to this principle, the question regarding HLPF is therefore – which of the three bodies of the UN are best positioned to deal with the sustainable development agenda in the context of the UN: The UN General Assembly; ECOSOC or the HLPF?

The UN Charter is regarded as an enabling document containing programmatic principles and purposive objectives. The International Court of Justice has been called upon several times to give its consideration on the arrogation of new powers executed by the UN, and it has been consistent in taking the view that the nature and scope of UN powers is not determined by any specific provision in the Charter, but by the ends pursued by the Organisation to fulfil its purposes.<sup>74</sup> The demarcation of powers within the UN is not always easily settled, and Professor at Law, Nicolas Tsagourias writes that “in order to identify the appropriate level

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<sup>74</sup> Advisory Opinion of the International Court of Justice, 1962 – Certain expenses of the United Nations, Article 17, Paragraph 2 of the Charter, and similar cases by the ICJ, referred to by Tsagourias in 1949, 1971 and 1996.

where power will be exercised for attaining the common good – an aim to which all actors ascribe, and in which they have invested”<sup>75</sup> the principle of subsidiarity is used.

The literature on the principles of subsidiarity and conferral of powers from states to international organizations is rich and growing. As global intergovernmental organisations began to proliferate during the past decades, an increasing number of legal experts, researchers, lawyers, professors at law, judges including practitioners began to invest a growing interest in scrutinizing these phenomena.<sup>76</sup>

The principle of subsidiarity is today a constitutional backbone of EU law (see Box below), which is still the only law system which so far has made the principle into binding law. The principle is by no means of a new date, and there are scholars who claim they can trace the principle back to the philosophy of Aristotle. The principle was certainly familiar to those organising the League of Nations, and when the UN Charter was negotiated, the principle became integrated in the Charter and in the operation of the UN, as pointed to above.

“ ... subsidiarity gradually acquired political dimensions when it was applied to organised and composite political orders, whether state or international ones. Within political orders, subsidiarity assists in regulating the relationships between and among different power holders in order to attain the common good effectively and less intrusively. More specifically, subsidiarity determines which level of authority will achieve the objectives of the proposed action more efficiently, and justifies action by a higher level of authority only if the proposed objectives cannot be achieved equally well by the lower levels of authority, and only if that action does not interfere unnecessarily with their authority.”<sup>77</sup> The last sentence has direct bearing on the case of HLPF, ECOSOC and the GA.

Tsagourias having studied the UN and Security Council and its work relating to international law-making, has given much time and thought to the UN and its principle of subsidiarity. And he is not alone in looking at this field.

The principle of subsidiarity is firmly placed within the Charter of the UN itself as a way of delegating operational responsibility. Article 2.7 of the Charter delineates formally the principle of subsidiarity for the UN. It is placed under Chapter 1 of the Charter named Purposes and Principles, and not, for instance, in the section of peaceful settlements between states. The positioning of paragraph 2.7 is not accidental. It has been given a principled position in the Charter in Chapter 1, and its content must therefore be applied to the entire UN system. Tsagourias states that as Article 2.7 “... was placed at the intersection of UN and Member States’ jurisdictional authority and provides the context where the powers of the UN meet those of its Member States in the pursuit of the common goal of peace and security. It is only in this way that it acquires normative and practical significance and meaning. It is in this vein then that it is claimed that Article 2.7 is an expression of the principle of subsidiarity.”<sup>78</sup> This argument is also supported by the travaux préparatoires according to which Article 2.7 was not viewed as ‘a technical and legalistic formula’, but as a fundamental rule regulating

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<sup>75</sup> Nicholas Tsagourias, University of Glasgow, the Adam Smith Research Foundation: “The Security Council Legislation, Article 2.7 of the UN Charter and the Principle of Subsidiarity, working paper 2011:05, p 5

<sup>76</sup> J. Hettne & F. Langdal: SIEPS, Does subsidiarity ask the right questions? A. Boyle & C. Chinkin, The making of international Law; Feichtner: Subsidiarity in Max Planck Encyclopedia of Public International Law, G. Ulfstein & J. Klabbbers & A. Peters: The constitutionalization of International Law, Oxford University Press

<sup>77</sup> Professor at Law, Nicholas Tsagourias, University of Glasgow, the Adam Smith Research Foundation: “The Security Council Legislation, Article 2.7 of the UN Charter and the Principle of Subsidiarity”, working paper 2011:05, p 5

<sup>78</sup> Ibid, p 6.

the relationship of the UN with its Member States and was considered ‘inherent in the whole concept of an international organization’.<sup>79</sup>

Tsagourias again: “Its (subsidiarity’s) currency is also confirmed by the fact that at both national and international level the process of aggregating power in order to attain common goals and maximise benefits has nowadays given rise to demands for the diffusion of power between and among different levels of authority without however downgrading the expectations about the end to be achieved or the benefits to be accrued, an event that requires new conceptual understanding as to how power can be organised and exercised among different authorities. Subsidiarity provides such a tool by organising the relationship between the UN and its Member States in symbiotic rather than antagonistic terms with a view of achieving the common goals.”<sup>80</sup>

Member states delegate their power to operative bodies within the UN through the UN system and expect these bodies to carry out their mandates. HLPF was established by the universal membership of the UNGA, and its two masters, the GA and ECOSOC, have delegated their power and authority by the text of the resolution to HLPF with a clear and mandated message stated in paragraph 2 of 67/290 to carry out all relevant work on sustainable development for the UN. With its heavy workload defined by UN member states through the 30 paragraphs of resolution 67/290 (see Annex I for the workload), HLPF is believed by member states to be the body best positioned in the UN system to carry out decisions by member states on sustainable development.

In other words, to paraphrase professor Tsagourias, HLPF is established through the principle of subsidiarity, has been delegated authority by the UNGA and ECOSOC within the context of sustainable development without threatening or undermining the authority of these two charter bodies, has organisational autonomy and authority, and responds and reports to both its two masters, ECOSOC and the GA. HLPF is a body with powers to execute within the context of SDGs, to quote professor Tsagourias: “in order to identify the appropriate level where power will be exercised for attaining the common good – an aim to which all actors ascribe, and in which they have invested”<sup>81</sup>.

#### **Box 9**

#### **The principle of subsidiarity expressed in Agenda 21**

The principle of subsidiarity coupled with a new and modern understanding of the necessity to cooperate globally between nations is expressed in several environmental conventions. Enumerating a number of soft-law agreements and UN conventions on the environment, Professor Giuseppe Schiavone<sup>82</sup> commented already in an article in 1994 that: “The very existence of such a variety of recommendations (UN environment conventions and declarations, author add), declarations and formal agreements make it imperative to harmonize – to the fullest extent possible – principles, procedure and criteria. It is certainly a long term task, which would be made considerably less difficult by closer interagency

<sup>79</sup> R.B. Russel: “A history of the United Nations Charter”, The Brookings Institution, Washington DC, 1958, quoted in Tsagourias “The Security Council Legislation, Article 2.7 of the UN Charter and the Principle of Subsidiarity”

<sup>80</sup> Ibid, Conclusions

<sup>81</sup> See footnote 38

<sup>82</sup> From Professor Giuseppe Schiavone “General Principles of Environmental Law Relating to Transboundary Movements of Hazardous Wastes” in “Proceedings of the Qatar International Law Conference, International legal Issues arising Under the United Nations Decade of International Law”, edited by Dr. Najeeb Al-Nauima and Richard Meese, Martinus Nijhoff publishers, the Hague/London/Boston 1994, p

cooperation and coordination both globally and regionally.”<sup>83</sup> Such harmonization, not the least in the area of implementation, may take place by using the principle of subsidiarity.

Schiavone makes the following observation in his article – that the principle of subsidiarity and transparency are combined in Agenda 21 and the Rio Declaration. He refers to Principle 10 of the Rio Declaration, and states that it proclaims the right of every individual to have appropriate access to information held by public authorities “including information on hazardous materials and activities.”<sup>84</sup> Effective participation and engaged implementation of plans – a prerequisite for the success of the Post 2015 Development agenda with the SDGs – depends on access and information made available, two principles also firmly rooted within the HLPF resolution. An often stated truism is: unless governments own intergovernmental processes, policies will never be taken seriously. Another is: unless people feel ownership of development, little will be implemented. According to Principle 10 of the Rio Declaration, issues “are best handled with the participation of all concerned citizens at the relevant level.” According to Schiavone, this is an expression of subsidiarity at its most appropriate level, at the grass roots, a condition for successful implementation of Agenda 21. The same condition can also be made for the implementation of the SDGs.

### **Subsidiarity and the Charter of the United Nations**

A ‘precedent’ is a principle or rule established in a previous legal case that is either binding on or persuasive for a court, a tribunal or a decision-making legal authority when deciding subsequent cases with similar issues or facts. Common-law legal systems place great value on deciding cases according to consistent principled rules so that similar facts will yield similar and predictable outcomes, and observance of precedent is the mechanism by which that goal is attained. The principle of precedent is also used widely in civil-law systems, and in fact the principle is also being used frequently by many other standard setting or normative systems, of which the UN is definitely one.

‘Agreed language’ is a term also frequently used in deliberations at the UN, and though offering guidance, it does not carry as much authority as a ‘precedent’.

The Security Council is often referred to as the most important political institution in the UN. Because of its special organisational structure and its position in the UN hierarchy, also as a Charter Body, its decisions are often attributed with strong precedent setting authority within the UN.

Article 2.7 of the Charter is referred to in connection with one of the most politically sensitive issues in the UN – that of guarding and respecting national sovereignty. The protection of the principle of sovereignty is most assiduously guarded by all member states of the UN, and even though the principle dates back to the peace settled at Westphalia in 1648, and in practice is being challenged and even overridden by many elements in the modern world of the 21<sup>st</sup> century, it is still considered one of the most hallowed principles in international relations .

Article 2.7 was set up to protect national sovereignty as its main purpose. It simply states: *“Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.”*

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<sup>83</sup> Ibid p 279

<sup>84</sup> Ibid, p 283-284



As can be seen, the various elements of Article 2.7 confer implementing authority to other parts of the UN according to what has been labelled the subsidiarity principle.

There are over the years several principled decisions taken by the Security Council that have inspired norms for the UN, and have been considered as precedent setting decisions. The case of Security Council resolutions 1373 and 1540 of 2004 are of interest in the case of subsidiarity, and may all help to shed light on the formal position of HLPF. Once we understand the issue of subsidiarity, we may also be in a better place to understand what kind of a construct HLPF is and to give the necessary authority to HLPF based on 67/290, the resolution that established HLPF (for more details in this case, see Box 8 below).

**Box 10 -**

**The Security Council – the prima facie precedent setting body of the UN - Security Council resolutions 1373 and 1540 – a case of devolution of power and legal subsidiarity, a precedent with relevance to HLPF?**

International peace and security are commodities which both states and the UN strive for, but certain issues such as terrorism or Weapons of Mass Destruction, WMD, have of late acquired transnational character affecting all states as well as the international system as such. During the debates in the Security Council in 2004, states agreed to allow the Security Council to enact resolutions that came to be considered elements of international legislation committing all nations to follow their letters almost to the point. Two resolutions were adopted in this spirit – resolutions 1373 and 1540.

The principle of subsidiarity helped to inform the process surrounding the adoption by the Security Council of the two legislative resolutions on terrorism and WMD. More specifically, the Security Council could now, with the power of the two resolutions, intervene in the world with regard to terrorism when its aims, means, methods, participants or victims spread beyond and across borders and when the disparities and gaps in existing legal framework distorted or impeded efforts at efficient regulation and enforcement. In fact the two resolutions 1373 and 1540 set out a number of mandatory legislative targets, but allowed states to implement them in conformity with the relevant provisions of national and international law.

The aspect of subsidiarity was also reflected in the establishment of UN Committees that were to deal with elements outlined in the two resolutions. Interestingly enough, according to 1540, states committed to be monitored, technical assistance and capacity building based on the results from the monitoring practice were established in dialogue with states, country reports and best practices were to be applied originating from the reporting and monitoring systems, enhanced regulatory frameworks and new networks were established. What is also worth noting is that the drafting of Resolution 1540 was preceded by five months of consultations and open meetings with the entire UN community of member states. And finally the two resolutions were adopted by consensus.<sup>85</sup>

The two resolutions mandated the Security Council to establish a so-called 1540 committee to execute its mandates through the principle of subsidiarity under the auspices of the Security Council. The committee enjoys wide autonomy and reports back to the Security Council.

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<sup>85</sup> For a detailed discussion of this issue, see Professor at Law, Nicholas Tsagourias, University of Glasgow, the Adam Smith Research Foundation: "The Security Council Legislation, Article 2.7 of the UN Charter and the Principle of Subsidiarity", working paper 2011:05,

Reading through the Rio+20 Outcome document, it is fair to assume that HLPF was established through UN GA Resolution 67/290 with the same urgency in mind as when the UN member states agreed by consensus to Security Council resolutions 1373 and 1540. After all, these resolutions are all about the safety and future of mankind. And even though the fields of operations are different, principles of methodologies and organisational structure may be similar.

#### **Box 11 -**

##### **Subsidiarity codified in law**

The principles of subsidiarity are being increasingly adopted by nation states, and one of the most advanced systems of subsidiarity is found in EU law today.

The principle of subsidiarity is fundamental to the functioning of the European Union (EU), and more specifically to European decision-making. In particular, the principle determines when the EU is competent to legislate, and contributes to decisions being taken as closely as possible to the citizen.

The principle of subsidiarity is established in Article 5 of the Treaty on European Union. It appears alongside two other principles that are also considered to be essential to European decision-making: the principles of conferral and of proportionality.

##### **Subsidiarity defined by EU law:**

The principle of subsidiarity aims at determining the level of intervention that is most relevant in the areas of competences shared between the EU and the Member States. This may concern action at European, national or local levels. In all cases, the EU may only intervene if it is able to act more effectively than Member States. The Protocol on the application of the principles of subsidiarity and proportionality lays down three criteria aimed at establishing the desirability of intervention at European level:

- Does the action have transnational aspects that cannot be resolved by Member States?
- Would national action or an absence of action be contrary to the requirements of the Treaty?
- Does action at European level have clear advantages?

The principle of subsidiarity also aims at bringing the EU and its citizens closer by guaranteeing that action is taken at local level where it proves to be necessary. However, the principle of subsidiarity does not mean that action must always be taken at the level that is closest to the citizen.

The principle of subsidiarity is defined in Article 5 of the Treaty on European Union

It ensures that decisions are taken as closely as possible to the citizen and that constant checks are made to verify that action at Union level is justified in light of the possibilities available at national, regional or local level. Specifically, it is the principle whereby the Union does not take action (except in the areas that fall within its exclusive competence), unless it is more effective than action taken at national, regional or local level. It is closely bound up with the principle of proportionality, which requires that any action by the Union should not go beyond what is necessary to achieve the objectives of the Treaties.

The Edinburgh European Council of December 1992 issued a declaration on the principle of subsidiarity that laid down the rules for its application. The Treaty of Amsterdam took up the approach that followed from this declaration in a Protocol on the application of the principles of subsidiarity and proportionality. Following the entry into force of the Treaty of Lisbon on 1 December 2009, the Protocol now requires the principle of subsidiarity to be respected in all draft legislative acts and allows national parliaments to object to a proposal on the grounds that it breaches the principle, as a result of which the proposal may be maintained, amended or withdrawn by the Commission, or blocked by the European Parliament or the Council. In the case of a breach of the principle of subsidiarity, the Committee of the Regions may also refer directly to the Court of Justice of the European Union.

## **VI - ANNEXES**

### **ANNEX 1 –**

Of the 30 paragraphs in the HLPF, 12 of the paragraphs give authority to HLPF to carry out specific tasks. In total there are approximately 30 agenda points to be dealt with by HLPF. The 12 Paragraphs are identified below, and every bullet point represents an operative task for HLPF. The text revealing the ‘tasks’ are almost to the point quotes from the UNGA resolution 67/290.

The HLPF will also be tasked with the 17 SDGs including its 169 targets.

The Rio+20 Outcome Document identified and agreed on 14 processes, which have been started and which all deal with sustainable development issues. The SDGs and HLPF are but two of these processes. Find at the end an overview of the 14 processes as identified by the Rio+20 Outcome document.

#### **HLPF responsibilities:**

##### **From Paragraph 1 –**

- provide political leadership, guidance and recommendations for sustainable development,
- follow up and review progress in the implementation of sustainable development commitments, - further elaborated I detail under paragraphs 8, involving several operative subparagraphs
- enhance the integration of the three dimensions of sustainable development in a holistic and cross-sectoral manner at all levels and have a focused,
- have a focused, dynamic and action-oriented agenda, ensuring the appropriate consideration of new and emerging sustainable development challenges

##### **From Paragraph 6 –**

*Also decides* that the meetings of the forum under the auspices of the General Assembly:

- Shall result in a concise negotiated political declaration to be submitted for the consideration of the Assembly;

##### **From Paragraph 7 –**

*Further decides* that the meetings of the forum under the auspices of the Economic and Social Council:

- Shall have a thematic focus reflecting the integration of the three dimensions of sustainable development, in line with the thematic focus of the activities of the Council and consistent with the post-2015 development agenda;

- Shall follow up and review progress in the implementation of all the outcomes of the major United Nations conferences and summits in the economic, social and environmental fields,
- Contribute to the enhanced integration of the three dimensions of sustainable development in a holistic and cross-sectoral manner at all levels,
- and in this regard invites the forum to take into account the contributions and work of relevant United Nations intergovernmental bodies in the social, economic and environmental fields;
- as well as their respective means of implementation,
- improve cooperation and coordination within the United Nations system on sustainable development programmes and policies,
- promote the sharing of best practices and experiences relating to the implementation of sustainable development and,
- facilitate sharing of experiences, including successes, challenges and lessons learned,
- and promote system-wide coherence and coordination of sustainable development policies;
- shall take into account the work of the Development Cooperation Forum, as well as other activities of the Council relating to the integration and implementation of sustainable development;
- Shall benefit from regional preparatory processes; NB all five regions including the concrete elements itemised in paragraph 13
- Shall result in a negotiated ministerial declaration for inclusion in the report of the Council to the General Assembly;

**From paragraph 11**

with the aim of *Decides* that the meetings of the forum shall devote adequate time to the discussion of the sustainable development challenges facing developing countries,

- including the most vulnerable countries,
  - including the most vulnerable countries,
  - in particular the least developed countries,
  - small island developing States,
  - landlocked developing countries and African countries,
- enhancing engagement and implementing commitments
- recognize the particular challenges facing the middle-income countries in achieving sustainable development, and

- reiterates that the efforts of middle-income countries should be adequately supported by the international community, in various forms, taking into account the needs of those countries and their capacity to mobilize domestic resources;

**From paragraph 17**

- Invite and hear reports from the Bretton Woods Institutions
- The World Trade Organization
- Other relevant intergovernmental organizations

**From Paragraph 18**

- Identify and address new and emerging issues

**From Paragraph 20**

*Decides* that the forum shall strengthen

- the science-policy interface by examining documentation, bringing together dispersed information and assessments,
- The Global Sustainable Development Report, GSDR, building on existing assessments, enhancing evidence-based decision-making at all levels and contributing to the strengthening of ongoing capacity-building for data collection and analysis in developing countries,

**From Paragraph 21 – SCP**

- *Also decides* that the forum may provide recommendations to the board of the 10-year framework of programmes for sustainable consumption and production, as well as to the United Nations Environment Programme, as the secretariat of the 10-year framework, taking into account their reports;

**From Paragraph 22 – Agenda setting**

Coordinate and receive input from the Bureaux of the relevant committees of the Assembly, from relevant bodies of the UN-system and from major groups and other stakeholders

**From Paragraph 23**

Receive input through its secretariat, from funds and programmes, multilateral financial and trade institutions, the secretariats of the three Rio conventions and other relevant treaty bodies and international organizations within their respective mandates;

**From Paragraph 29**

Conduct a review at the 73 GA session, i.e. in 2018

## **The Rio+20 Summit agreed on 14 processes**

- ▣ **The green economy process**
- ▣ **The high level forum on SD**
- ▣ **Intergenerational solidarity, the ombudsperson for future generations**
- ▣ **Strengthening UNEP**
- ▣ **Integration of the three dimensions of SD**
- ▣ **Outcome of Delivering as One Process, strengthening operational activities**
- ▣ **Sustainable Energy for All (SG initiative)**
- ▣ **GA process on the maritime jurisdiction beyond national boundaries, conservation and resource use of marine resources,**
- ▣ **Challenges facing small island developing states**
- ▣ **10-Year Programme on Sustainable Consumption and Production**
- ▣ **The Sustainable development goals – through to 2015**
- ▣ **Assessing financing needs for sustainable development**
- ▣ **Clean environmentally friendly easily adaptable and usable technologies**
- ▣ **The registry of commitments**

## **ANNEX 3**

The various offices and responsibilities of DSD - Division of Sustainable Development of UNDESA

- Office of the Director – overall responsibility, budget and human resources.
- Intergovernmental support and interagency branch, dealing with intergovernmental affairs (HLPF, Second Committee, ECOSOC) and UN system.
- Policy and analysis branch - substantive support and interface with scientific community and UN system on substantive issues
- SIDS, Oceans and climate branch – in addition deals with transport, urban issues, Sustainable Consumption and Production. It also houses SIDS Unit.
- Water, energy and capacity development branch - acts as secretariat for UN Water and UN Energy. Supports countries at the national level through a number of capacity development projects; have started in some countries to support mainstreaming of SDGs into their national development policies.
- Communication and outreach branch - takes care of Major Groups and other stakeholders, outreach (including partnerships, social media and maintains internet Sustainable Development Knowledge Platform, partnership platform including SIDS partnership platform)

## **ANNEX 4**

The ECOSOC Support Office/Secretariat

- ECOSOC Support and Coordination, dealing with coordination across the UN system, providing input for all ECOSOC meetings, report from all subsidiary bodies of ECOSOC including all the UN Specialised agencies
- Office of the Director, Support to Director, budget and human resources

- Policy Coordination Branch - intergovernmental affairs -support to ECOSOC and Second Committee of the GA, but providing issues on all other issues than those relating to sustainable development, which is provided by DSD.
- NGO Branch – providing support to NGO Committee, which is a committee consisting of only member states, and whose task is accreditation, procedural rules etc, and is vastly different from the Major group’s Branch of DSD, which deals with policy issues for the major groups and other stakeholders
- ECOSOC and Inter-organizational Cooperation Branch – provides by and large support to the ECOSOC partnership forum and this organizational segment of ECOSOC
- Development Cooperation Policy Branch - they support DCF

## ANNEX 5

The different constructs or bodies referred to in the boxes below, established to service the UNGA or ECOSOC, have different governance systems. In general, it is fair to observe that the committees do not conduct regular large-scale negotiations once a year, as the commissions usually do. The bodies established as Committees are not open to participation from the NGO community and are often run under GA rules of procedure. One exception to this is the Permanent Forum on Indigenous Issues.

The commissions are established through a GA resolution, have been furnished with a set of modalities, and often have a fairly large audience attending their annual meetings including many non-state actors. The commissions have a stipulated membership from the member states, but the participating nations often far exceed the membership of the commissions. The Commission of the Status of Women and the now defunct Commission on Sustainable Development are points in case.

The group that is referred to as semi-autonomous bodies, has different governance systems, and also report in a way both to the UNGA and ECOSOC. Some of them report through ECOSOC to the UNGA, and some directly to the GA. A few of these bodies have universal membership, such as UNICEF, UNDP and UNCTAD. UNEP, which used to have a membership of 58 nations, has been upgraded to universal membership following the recommendation from Rio+20. But the UNGA resolution accepting the upgrade of UNEP to UNEA with universal membership states that no change in the formal mandate or structure of UNEP is expected to take place. This means in fact that UNEP will still report to the UNGA through ECOSOC. UNDP is subject to the same procedural requirement, even though the head of UNDP is often referred to as the third most important person in the UN system – ranked after the SG and the deputy SG of the UNGA. All these requirements are explicitly stated in the UNGA resolutions establishing these bodies.

### **A few subsidiary organs of the General Assembly (for a full list, see the UN GA website)**

#### **Boards**

- Board of auditors [established by GA resolution 74 (I)]
- Trade and development Board [established by GA resolution 1995 (XIX)]
- United Nations Joint Staff Pension Board [established by GA resolution 248 (III)]
- Advisory Board on disarmament matters [established by GA resolution 37/99 K]

**Executive Boards**

- Executive Board of the United Nations Children's Fund [established by GA resolution 57 (I) and 48/162]
- Executive Board of the United Nations Development Programme and of the United Nations Population Fund [established by GA resolution 2029 (XX) and 48/162]
- Executive Board of the World Food Programme [established by GA resolution 50/8]

**Commissions**

- Disarmament Commission [established by GA resolution 502 (VI) and S-10/2]
- International Civil Service Commission [established by GA resolution 3357 (XXIX)]
- International Law Commission [established by GA resolution 174 (II)]
- United Nations Commission on International Trade Law (UNCITRAL) [established by GA resolution 2205 (XXI)]
- United Nations Conciliation Commission for Palestine [established by GA resolution 194 (III)]
- United Nations Peacebuilding Commission [established by GA resolution 60/180 and UN Security Council resolutions 1645(2005)]

**Advisory Commission**

- Advisory Commission on the United Nations Relief and Works Agency for Palestine Refugees in the Near East [established by GA resolution 302 (IV)]

**Committees**

- Investments Committee [established by GA resolution 155 (II)]
- United Nations Staff Pension Committee [established by GA resolution 248 (III)]
- Committee for the United Nations Population Award [established by GA resolution 36/201]
- Committee on Contributions [established by GA resolution 14 (I) A]
- Committee for Programme and Coordination [established by GA resolution 31/93 and ECOSOC Resolution 2008 (LX)]
- Committee on Conferences [established by GA resolution 43/222B]
- Committee on Information [established by GA resolution 33/115 C]
- Committee on Relations with the Host Country [established by GA resolution 2819 (XXVI)]
- Committee on the Exercise of the Inalienable Rights of the Palestinian People [established by GA resolution 3376 (XXX)]
- Committee on the Peaceful Uses of Outer Space (COPUOS) [established by GA resolution 1472 A (XIV)]
- United Nations Scientific Committee on the Effects of Atomic Radiation (UNSCEAR) [established by GA resolution 913 (X)]

According to the ECOSOC website, there are four types of subsidiary organs of the Economic and Social Council:

- the semiautonomous bodies (organizations, programs, and funds);
- 5 regional commissions;



- functional commissions; and
- sessional, standing, and ad hoc committees.

**Semiautonomous bodies, which generally report both to ECOSOC and to the UN General Assembly:** (the list is not exhaustive)

- Committee for Programme and Coordination,
- High-level Committee on the Review of Technical Cooperation among Developing Countries,
- United Nations Children's Fund, UNICEF,
- United Nations Conference on Trade and Development, UNCTAD,
- United Nations Development Fund for Women,
- United Nations Development Programme, UNDP,
- United Nations Environment Programme, UNEP;
- Office of the United Nations High Commissioner for Refugees, UNHCR,
- United Nations Population Fund, UNFPA,
- United Nations Relief and Works Agency for Palestine Refugees in the Near East, UNRWA,
- The World Food Programme, WFP

**Functional Commissions of ECOSOC** (the list is not exhaustive)

Since 1946, ECOSOC established functional commissions and sub-commissions to advise and assist it in its work.

- The Statistical Commission, with 24 members,
- The Commission on Population and Development, with 47 members,.
- The Commission for Social Development, with 46 members,
- The Commission on Human Rights, with 53 members
- The Commission on the Status of Women, with 45 members,
- The Commission on Narcotic Drugs, with 53 members,
- The Commission on Science and Technology for Development , with 33 members
- The Commission on Crime Prevention and Criminal Justice was established in December 1991. The commission has 40 members.
- The Commission on Sustainable Development had 53 members and a high-level Advisory Board, consisting of eminent persons from all regions of the world, that should provide input to the commission and the council through the Secretary-General.

**Standing Committees of ECOSOC** (the list is not exhaustive)

ECOSOC has and has had a number of standing committees and expert bodies:

Among them are/have been:

- Committee for Programme and Coordination,
- Committee on Non-Governmental Organizations,

- Committee on Negotiations with Intergovernmental Agencies,
- Ad hoc Open-ended Working Group on Informatics,
- Committee of Experts on the Transport of Dangerous Goods and on the Globally Harmonized System of Classification and Labelling of Chemicals,
- United Nations Group of Experts on Geographical Names,
- Committee for Development Policy,
- Meeting of Experts on the United Nations Programme in Public Administration and Finance,
- Ad Hoc Group of Experts on International Cooperation in Tax Matters,
- Committee on Economic, Social and Cultural Rights,
- Committee on Energy and Natural Resources for Development,
- Permanent Forum on Indigenous Issues.

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Bio of the author:

Jan-Gustav Strandenaes  
[Jg\\_str946@hotmail.com](mailto:Jg_str946@hotmail.com)  
 +47 470 18 337

Educated at the Universities of Oslo, Norway and Uppsala, Sweden and at St. Olaf College in Minnesota, the US, in modern history, literature, environmental sciences and development issues, **Jan-Gustav Strandenaes** had his debut with the UN and the environment in the 1970s through the Stockholm Conference for Environment in 1972 and has stayed with this arena ever since.

After having worked on disseminating information on and teaching about UN issues during the 80s and early 90s, he has followed and worked with the CSD process (UN Commission for Sustainable Development) diligently every year since 1997, when he that year, with a special focus on the Rio plus 5 process, was a liaison officer between the UN and the NGO community at the UN headquarters in New York. After his first assignments for the UN in Latin America in the 70's, Jan-Gustav has worked and lived in Botswana, Uganda, the US and Sweden in addition to Norway.

Between 1985 and 2005, Jan-Gustav reorganised, coordinated and helped build as working Chair of the Board, a development-environment NGO (Utviklingsfondet) in Norway from scratch to be one of the largest ones in Norway with projects in more than 20 countries in the developing world. While working there he also helped to establish the Rainforest Alliance, today a major handler of UNREDD programmes.

He has extensive NGO experience developed through four decades in almost all continents in the world. He speaks several languages, is a seasoned lecturer, and has lectured regularly at the Oslo University College in Norway. Over the years he has given workshops and guest lectures all over the world on the UN, governance, the environment and sustainable development, evaluated projects and organisations in Africa, Asia and Latin America, advised governments on relations with civil society and NGOs, chaired UN meetings and facilitated UN processes, translated several books from English to Norwegian and authored two books and numerous articles on the environment and sustainable development. For more than 10 years he was the senior editor for a UN conference newsletter on environment and sustainable development, and still comments regularly on sustainability issues, governance including value- and ethically based decisions while observing and writing on political behaviour.

During 2003-04 he served as a Norwegian diplomat with the Norwegian embassy in Kampala, Uganda, having a special portfolio to work with and develop relations with NGOs/civil society there with a particular focus on governance structures.

For ten years (2001 – 2011) he served as the UN CSD NGO Co-Organising Partner coordinating for UN DESA global NGO input into the UN CSD process as well as serving on a global civil society committee for UNEP on environmental governance and civil society policy issues for that organisation where he also performed the same duties as those for the UN CSD. He has since functioned as an adviser for these committees. From 2010 until end of July 2012, he also held a central position as an adviser, consultant and trainer for the UN (UNDESA) at the global level in process-work and capacity building exercises leading up to the UN Conference on Sustainable Development which was held in June 2012 in Brazil, the Rio+20 Conference. Jan-Gustav was asked to give the final statement on behalf of the global NGO community to the UNCSD when it was closed down in 2013, to be replaced by a new UN institution, the High Level Political Forum, HLPF, with which he is currently engaged.

Jan-Gustav joined Stakeholder Forum, London, UK (<http://www.stakeholderforum.org/sf/>) in 2011 to work with them on the UN DESA project administrating, developing and carrying out global capacity building and NGO/ civil society liaison work researching and working on governance issues, all in connection with the UN Summit on Sustainable Development. He currently works with them as an independent researcher on specific assignments. He was an associate with the Haring Woods Studio, ([www.haringwoods.com](http://www.haringwoods.com)), a think tank based in London, UK, on culture and environment between 2008 and 2012. For 12 years, from 2000, Jan-Gustav held a principal position in ANPED as the senior adviser on sustainability and governance matters, (The Northern Alliance for Sustainability, [www.anped.org](http://www.anped.org)), now part of the EEB, a Brussels-based, EU funded, international NGO, and helped develop ANPED to become one of the largest networks on sustainable development in Europe with programmes on governance in Central Asia as well.

Jan-Gustav also holds a position as senior adviser on governance and CSR issues for a private-sector Norwegian think tank called PURE CSR (<http://www.purecsr.no/?lang=2>) servicing Norwegian and international businesses helping them to develop strategies on sustainable development and corporate social responsibility. Among his many tasks in PURE lately, he was asked to develop sustainability profiles for Norwegian sports health and well-being issues related to Norway's commitment to work on the Olympics and with IOC, the International Olympic Committee.

Since Rio+20 in 2012, Jan-Gustav has concentrated his energy on governance issues related to the Post 2015 Development Agenda, in particular to elements concerning the Sustainable Development Goals, SDGs, including its governance structure and what SDGs are all about. He is presently writing an options paper for UN DESA, its DSD, Division for Sustainable Development, on the High Level Political Forum, HLPF, which will be the key UN body in the new, global institutional architecture on governance and sustainable development at the UN. He is also doing similar research for CIVICUS, a world leading NGO network based in Johannesburg, South Africa.

He is an independent researcher, adviser and consultant writing, lecturing or doing research on environment, governance and sustainability issues and when he is not travelling the world, -he once crossed the Kalahari desert in an old Land Rover - he works out of his home outside Oslo, Norway.