Governance for Sustainable Development

Paper # 4

WHAT Governance Programme

*A Joint Initiative of the **W**orld **H**umanity **A**ction **T**rust (WHAT), **UNED** Forum[1] and **G**lobal **L**egislators **O**rganisations for a **B**alanced **E**nvironment (GLOBE) Southern Africa*

Submission to the Fourth Meeting of the Open Ended Intergovernmental Group of Ministers or Their representatives on International Environmental Governance, Montreal, Canada, 30 November – 1 December 2001

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[1] [1] From January 1st 2002 **UNED Forum** will be known as **Stakeholder Forum for Our Common Future**

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WHAT Governance Programme Statement to the Fourth Meeting of the Open Ended Intergovernmental Group of Ministers or Their Representatives on International Environmental Governance, Montreal, Canada, 30 November – 1 December 2001

One of the greatest disappointments for those who worked hard for a meaningful agreement at the Earth Summit in 1992 has been the general lack of political commitment from government, institutions and civil society for the implementation of sustainable development. The failure to adequately protect environmental integrity and support social welfare on the ground is largely due to a lack of coherent, forward-looking and integrated global-local frameworks for sustainable development. Many participants continue to observe that the environmental governance regime has yet to sufficiently address the weaknesses, imbalances and inequities in global governance systems which, having developed in an ad hoc manner, have indeed left many gaps. There is a picture of the global governance regime that depicts narrow mandates, limited budgets and a lack of legal authority, staffing and political support. The global sustainable development partnership called for in Rio is foundering due to a failure of social and political will.

With an ever expanding international environmental law and policy making regime, the international community must now consider how the existing institutional machinery can be strengthened and better coordinated to ensure that it can confront the sustainable development challenges of the new millennium. The debate on International Environmental Governance (IEG) that has been initiated offers the chance for the international community to take a serious look at the global framework for sustainable development that we are trying to create.

The Challenges for International Environmental Governance

Poor people and poor countries have little influence and voice in global governance. Developing countries are often marginalised from the multi-lateral negotiations and policy making due to deficiencies in negotiating regimes and the lack of support for capacity building and access to technical, human and financial resources. Therefore it is no surprise that industrialised country priorities continue to dominate environmental debates. Most developing country governments argue that global environmental governance processes are dominated by Northern scientific interests and do not adequately reflect the most pressing environment and development priorities of the South. Developing country governments further assert that environmental negotiation processes are most often carried out without any due regard to the larger equity and social justice concerns, thereby disregarding the development dimension of the sustainable development agenda.

There has been a widespread failure to integrate environmental consideration across all policy areas of government and international institutions. This is in part due to the lack of a strong central environment anchor point for global environmental governance. There has also been a wide failure to link up and support collaborative action between institutions and groups at different ends of the sustainability scale. The principles of subsidiarity and bottom up decision-making have not been effectively applied at the international level.

Finances for international environmental policy making and the implementation of sustainable development have declined since 1992. Regular supply of funds from donor countries remains unreliable and even the voluntary contributions fall short of required levels to carry out mandated functions. The current discrepancy between commitments and action is increasingly widespread in both developed and developing countries alike. There is little evidence of joined up policy making and in many countries, environment ministries still rank very low in the political hierarchy. As a result the national environmental agenda is not given the prominence, nor the degree of political commitment that is due. The low level of commitment is in part reflected in the very small number of countries who have actually yet implemented national strategies for sustainable development. Industrialised countries have not taken adequate and coordinated measures to assist their developing counterparts, in terms of ensuring the provision of financial, human, technical, information and other capacity building resources.

Steps toward Change

As the nature of sustainable development problems becomes more complex, new mechanisms may be needed to set common goals, priorities and actions. In order to maximise its chances of success, the reform of environmental governance should be based on existing structures and above all aim to strengthen them. In the interests of overall consistency, the reform should concern the environment and sustainable development within the context of globalisation. A strong governance regime for sustainable development will be critical to ensuring that programmes emanating from the World Summit are a success.

Global governance systems must ensure the provision of visionary leadership that inspires nation states to overcome their preoccupation with narrow national interests and recognise that national security is indivisible from global security and requires sustained commitments to long-term ecological and human security. The mandates and functions of the global governance architecture must be realigned, based on the principles of subsidiarity with well-defined linkages amongst them so that they can cooperate more systematically, effectively and cohesively. In particular, this should include much closer relationships between the United Nations and the Bretton Woods Institutions (BWI) in

respect of economic, financial and monetary issues that impact on the political, social and environmental fields for which the UN is the primary forum.

An important guiding principle in global governance reform is the fair and equitable distribution of bargaining power to ensure that the influence and voice of the world's poor is heard and indeed reflected in the decisions of international environmental governance processes. Imbalances in the structures of global governance must be remedied with new efforts to create a more inclusive system. The process for taking decisions and setting priorities will therefore have to be scaled up to account for the new complexities. This is where global governance will be instrumental in providing clear norms and processes for reconciling differences. Decision-making must be made more transparent and independent evaluations of international policies can be a first step towards increased accountability.

Action by governments alone will not solve the problems underlying the global failure to implement sustainable development. In order to transcend political conflicts and vested interests, multi-stakeholder participation and partnerships need to be established and developed in decision-making and implementation. In this way the burden of responsibility for progressing good governance and the ethic of sustainable stewardship is more likely to be fairly shared. Local and national participation remains at the heart of integrated policy for the implementation of sustainable development. Further resources are vitally needed to invest in building the capacity of developing and transitional countries and, more crucially, local capacities to influence and inform international negotiations and policy making. We urgently need to encourage and facilitate wider public awareness, education (both formal and informal) and capacity building to help empower individuals and communities to take direct action towards sustainable development and environmental protection.

Adequate resources must be made available to all international institutions that are working to further progress in sustainable development in order that they are able to carry out their mandates. It is also essential to provide resources for developing and transitional countries to effectively prepare, participate and follow-up processes. Thus new and increased forms of financial support for sustainable development must be urgently sought. The UN Financing for Development (FfD) high-level conference in Mexico, March 2002, must be used as an opportunity to make the linkages and specific proposals for enhancing the quality and quantity of finance so that it is better targeted toward sustainable development

A wide gap continues to exist in international law as regards the accountability of international bodies, especially where they fail to deliver on agreed obligations and duties. Most international law has direct bearing on the nation-state but not on multi-lateral institutions. In the current globalised context, fundamental changes will have to take place in WTO, Bretton Wood's Institutions (BWI) and regional economic bodies, as

well as the UN, to better incorporate principles of good governance and sustainability at a global level. International environment, social, cultural, financial and trade agendas need to be mutually supportive and make more explicit the linkages to support the overarching goal of sustainable development. This will require systematic and coherent coordination between UN, Bretton Woods Institutions and WTO, with a long-term view to drawing the latter institutions under the auspices of the UN.

Improving institutional accountability is a key priority in the reform of international environmental governance systems. This is a challenging area that requires considerable work in the future to identify modes for self and/or independent regulation, monitoring and assessment, which will be crucial to enhance the accountability and transparency of all international institutions. In the re-design of the international environmental governance systems, it is important to bear in mind the need for new mechanisms to avert problems of non-compliance that undermine current global governance systems. There are important governance issues related to the implementation and compliance problems of the environmental treaty regimes. The emergence of a body of increasingly binding international environmental law raises the issue of the mechanisms required to monitor the implementation of the commitments into which States have entered. The process of monitoring the implementation of conventions is essential to good governance: its aim is to ensure that commitments made are fully effective.

The challenges ahead are considerable. There is a need to move to a more balanced approach embracing the environment, social and good governance as well as economic concerns. We need a comprehensive rules-based approach to sustainable development, with the necessary legal back up and capacity to ensure the implementation by all signatories.

Transformation and enhancement of institutions to allow for greater coherence between global, regional, national and local frameworks will be seen as key for making real progress towards sustainable development beyond the Johannesburg Summit in 2002. There is an urgent need for political leadership and global advocates for sustainable development, to assist policy-making and seeking out solutions. All institutions and stakeholders have a part to play in ensuring that sustainable development is the overarching goal throughout decision-making. International management of environment and sustainable development needs to command greater credibility, coordination and authority through universal commitment to the process, commitment that gives sufficient mandate to these institutions to enable them to enhance and improve their mandates.

A crucial element in a successful outcome for both the future of international environmental governance and the World Summit on Sustainable Development will be the full recognition by the governments and peoples of industrialised countries of the scale of the problems confronting many developing countries in achieving sustainable

development. This requires the full acceptance by industrialised countries of their responsibility for helping to resolve those problems through limiting their own adverse impacts, and helping positive developments in the South through better market access, technology transfer and financial support. Big changes are required, which will need political leadership and sensitivity as well as suitable transitional arrangements to protect those whose jobs or other interests are adversely affected.

The options and recommendations outlined in this submission seek to encourage a more open and accountable international process and assist the iterative honing down of ideas towards more finely tuned proposals for reform. Targets and strategies for reform will need to be established in a manner that allows clear definition of the steps of transition, in a form that is both open and adaptive, allowing for regular review and assessment. Whatever proposals are made, the ongoing process of reform needs to be one that is founded on the principles it is seeking to improve i.e. equity, clarity and accountability. Reform is more likely to be realised through wide ownership of the issues and collective responsibility to take progressive steps toward change. Whatever new or enhanced form of international environment governance develops, the world needs an environmental champion for global environmental issues and a champion for sustainable development more broadly. The United Nations Environment programme (UNEP) is critically placed to become such a champion.

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WHAT Governance Programme Submission to the Fourth Meeting of the Open Ended Intergovernmental Group of Ministers or Their Representatives on International Environmental Governance, Montreal, Canada, 30 November – 1 December 2001

The following submission has been prepared in response to the " Proposal of the President of the United Nations Environment Programme Governing Council for consideration by the Open Ended Intergovernmental Group of Ministers or Their representatives on International Environmental Governance" (12 November 2001). This paper draws on the numerous consultations and meetings that have taken place over recent years, addressing global governance and sustainable development[2]. It aims to provide a backdrop for further discussion, presenting the WHAT Governance Programme's view on the current international environmental governance debate.

1.   General Expectations for the International Environmental Governance Process

Global Outcomes

❑   Enable science and technology to inform policy-making and policy implementation at local, national and international levels.
❑   Increase funding and programmes for capacity building in policy-making and implementation.
❑   Promote vision, values and above all, joined up thinking (horizontal, vertical and temporal) to secure sustainability.
❑   Provide a system, which facilitates a dynamic approach to sustainability and is itself flexible and dynamic.
❑   Integrate global environmental policy development and sustainable development strategies.
❑   Promote education in sustainability.
❑   Incentivise the creation of inclusive organisations (in their policy formulating roles), willing to delegate (i.e. accept subsidiarity) in policy implementation; resourced at realistic levels (from sources preferably independent of national treasuries), and

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[2] In particular, existing work of the WHAT Governance Project, including: *Felix Dodds,* Inter-linkages Among Multilateral Environmental Agreements, World Summit for Sustainable Development International Eminent Persons Meeting on Inter-linkages Strategies for bridging problems and solutions to work towards sustainable development United Nations University Centre 3-4 September 2001; *Felix Dodds*, Reforming the International Institutions: *Johannah Bernstein,* Analysis of UNEP Executive Director's Report on International Environmental Governance (UNEP/IGM/1/2) May 16, 2001; *Rosalie Gardiner* Global Governance: Institutions and Sustainability; Governance for A Sustainable Future, A Report by the *World Humanities Action Trust; Peter Warren* and *Jack Jeffery* of WHAT and *Francis Caas*, GLOBE Southern Africa.

commanding respect of individuals/civil society; technical/managerial expertise, and nation state politicians.

❑ Encourage clustering across the social/cultural spectrum, across environmental, economic and political divisions and avoid the environmental ghetto.

❑ Take an ecosystem approach (with man and biosphere as part of those systems) and a problem-oriented one.

❑ Reduce territoriality through sticks and carrots in favour of collective thinking and action.

❑ Demand greater public accountability at a global scale.

National Outcomes

❑ Reduce national government's burden of reporting under different convention and IGO processes.

❑ Create the enabling frameworks for national level implementation of multi-lateral environmental agreements (MEAs).

❑ Help governments establish priorities for the allocation of domestic resources and for external technical and financial support to implement MEAs.

❑ Help governments keep track of and coordinate preparations for different convention/IGO processes so that decisions taken reinforce each other in relation to national commitments, internal agency policies, and agency program/budgets.

❑ Clarify, for specialised resource managers, policy-makers, and others which international body (ies) to turn to for information, expertise, and financial assistance in a given field or to seek improvements in specialised international (and thus national) policies.

❑ Support national mechanisms to promote communication among the groups and stakeholders working on different conventions at the national and local level: in some cases, national sustainable development councils could perform this function; in some cases, the convention focal point serves as liaison with relevant stakeholders.

❑ Policy guidance for projects (through donor agencies) and action plans which promotes the implementation of the Rio conventions in a mutually supportive manner.

2. Improving Coherence in Policy Making

The Role and Structure of the Global Ministerial Environment Forum (GMEF). The highlighted need for a high level forum for policy dialogue and coordination and in this regard for giving the Global Ministerial Environment Forum (GMEF) greater authority as the umbrella environmental policy forum within the United Nations system, which could also provide broad overarching policy advice to other entities is welcomed indeed. However, efforts must be undertaken to ensure that the work of the GMEF does not become undermined and/or paralysed by the unconstructive political dynamics, which

have impaired the work of the Commission on Sustainable Development (CSD), and which have dominated many recent international environmental negotiations. There must be a clear division of responsibility between the goals, objectives and work programmes of the GMEF and the CSD as well as the many Conference/Meeting of the Parties to MEAs. The process to re-inforce the GMEF is welcomed, however there are still some unanswered questions:

1. Clarify the role of major group representation on the Global Environmental Ministerial Forum, including the modalities of their participation at the global, regional and national levels.
2. Should the body be set up with a universal membership?
3. How can the issue that different countries have ratified different conventions be addressed within the make up of the GMEF?
4. What relationship will the GMEF have to the UN as a whole and to the WTO?
5. What relationship will the GMEF have to the UN Commission on Sustainable Development?

3. Strengthening the Role, Authority, and Financial Situation of the United Nations Environment Programme (UNEP).

The Role of UNEP. We welcome the proposal to strengthen the role, mandate and funding base of UNEP, and particularly the following elements:
❑ Coordination and support for defining synergies for solutions to environmental problems to assist implementation at the global, regional, sub-regional and nation levels.
❑ Coordination and support for information collection, monitoring and reporting, including early warning systems.
❑ Coordination and promotion of environmental literacy, awareness and capacity building.
❑ Coordination of best practice including technological innovation and the facilitation of networks of knowledge between major groups and governments.[3]

Financing of UNEP. One of the major issues for the future will be adequate funding to enable UNEP to fulfil its expanding mandate. The present system of funding is inadequate and there is a need to have 'new and additional' resources to implement the global conventions. Some of the interesting suggestions for this include: An increased role for the Global Environmental Facility (GEF) as the funding mechanism for the conventions. For this to happen it would need considerably greater levels of finance. It could perhaps offer funding for the six clusters suggested below. Additional funding

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[3] Developing a global environmental governance structure, Dr C Olver, Director General, Department of Environmental Affairs and Tourism, South Africa, presentation to the GLOBE Southern Africa Conference ahead of the WSSD, " Parliamentarians take Action ", -24- 23 October 2001, Cape Town.

(inward and outward) could be better facilitated at the national level through establishing a flexible framework for National Environment Facilities. One way to is to have extra official development assistance (ODA) for sustainable development similar to that of the Danish Government. Other ideas that are not new include: Carbon trading; a charge on international flights with departures and destinations in industrialised countries; a tax on all or some international financial transactions (Tobin Tax); a charge for fishing in international waters; a charge for royalties on minerals mines in international waters; a charge for satellites placed in geo-stationary orbit and pollution charges.

4.   Improved Coordination and Coherence between Multilateral Environmental Agreements

The Clustering of Multilateral Environmental Agreements (MEAs). Broad changes must be made to enhance the coherence, coordination, compliance and capacity building around MEAs. MEAs should also apply common principles for compliance, reporting, dispute, funding, information systems, methodologies, administration to assist ease of ratification for governments and administration. The links and crossover between environment and trade agreements need to be openly assessed and revised. The move towards bringing the conventions under eight main topic areas: biodiversity, seas, chemicals, nuclear, energy/climate, land-related, air and freshwater is important. If the Summit can act as a focus to increase the speed of doing this then that would be a very good outcome as a first step to more fundamental reform of the international environmental governance regime.

In particular there is a need to look at:

- ❑ **Co-location of clusters.** We should move from the present system of governments offering to host convention secretariats to a co-location around the six clusters. This might mean six different countries but preferably they should be located in a UN centre which would probably mean Nairobi, Bangkok, Addis Abba, Geneva and Bonn (though it is not a UN centre).
- ❑ **Review of regional conventions.** The great number of regional conventions require a comprehensive review to see if they can be grouped under the clusters with regional hubs to simplify their structures and maximise possible financial and technical opportunities.
- ❑ **Joint secretariat functions**. There are considerable financial savings to be made from each cluster having one centre of administrative staff to organize meetings and service the programme staff.
- ❑ **Joint meetings of the Bureaus within a cluster**. Bureau meetings might be backed on to a meeting of the Global Environmental Ministers Forum to ensure that a joint line is presented to the Ministers to enable action taken by the Ministers when they meet.

- **Joint meetings of the heads of the scientific and technical committees within a cluster and where relevant between clusters**. The need to share knowledge between the different scientific and technical bodies is an area that is often over looked. A meeting on a bi-annual basis would enable there to be a greater understanding of overlaps, gaps and actions required. The use of the Internet to integrate the information provision of the committees would also help.
- **Overall Head of each cluster.** Each cluster would benefit from an overall head to ensure that the conventions within the cluster are being coordinated. The overall Head of all the clusters should be the Executive Director of UNEP. UNEP should be seen as the facilitator of the clusters to ensure joined up thinking between them and within them.
- **Introduction of knowledge management (KM) within clusters and between clusters**. KM offers a great way of sharing knowledge and experience both vertically and horizontally. Many of the clusters will experience similar issues which do not have to be learnt six times but can be learnt once and the information shared into a knowledge bank to the benefit of the others.
- **Agreement of a methodological framework for indicators to enable measuring of enforcement and compliance.** The discussion on indicators has focussed more recently on the need to define a series of key global indicators. This has not been a particularly good idea. What we should be agreeing too is a methodological framework that indicator packages can operate within. For examples it would outline the process of their development, application (monitoring, assessment and revision of plans). This process should help clarify the most appropriate set of indicators for the national and sub national level, as they may differ with global indicators, depending on the particular context and level at which they are going to be utilised.
- **Integrate early warning systems.** The need for the development by UNEP of their early warning system for environmental disasters through coordination from the different information bases of each convention would be an important aspect of the way forward. This will enable appropriate discussion on the prioritisation of issues.
- **Subsidiarity.** The principle of subsidiarity and bottom up decision-making have not been effectively applied at the international level.[4] One option may be to establish through UNEP with CSD, WTO, UNHDP, etc, a UN Assembly Task Force on subsidiarity to tackle the issue of defining the best level at which specific sustainable

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[4] The European Union has through Article 5 of the Treaty establishing the European Community (as amended) recognised the role of subsidiarity. As Philip Sands (FIELD) argues: *"What is the proper legislation and adjudication of matters pertaining to the protection of the environment? In other words, is there a need to develop an international principle of subsidiarity the environment field, which would indicate the most appropriate level at which environmental norms should be set and then enforced? For the environmental lawyer this means asking oneself when an international (as opposed to a national) rule should be adopted at a bilateral, regional or global level. There is yet no rule of international law or guideline - which indicates the circumstances in which an international environmental convention should be adopted or a normative decision taken. There is no international environmental law equivalent to Article 5 of the Treaty establishing the European Union."*

development policies and arrangements for their implementation (i.e. management) should be determined and then delivered, and to report the implications of their conclusions in terms of both governance and responsibilities.

5. **Capacity Building, Technology Transfer and Country Level Coordination for Environment and Sustainable Development**

The Relationship between Science and Decision-Making. Full introduction of the Precautionary Principle (PP) would ensure that policy decision-making is based on anticipating problems in conditions of uncertainty. Utilising the PP could increase the dialogue with society in general to ensure that the benefits and the problems are known and discussed before moving forward. Although scientists are a Major Group in Agenda 21 they have generally not been actively involved in the discussions at a political level other than as government advisors. The introduction of Stakeholder Dialogues at the UN Commission on Sustainable Development does offer a new space for scientists to become involved without being beholden to governments or industry. What might be a move forward would be the setting of a Risk Management Scientific Body within UNEP. This could work off an annual Earth Assessment Report (developing the GEO Report) this could produce some joined up work between the different areas of scientific research. The Convention Secretariats should work towards a common approach to the Internet. This could include one portal for entry into the Convention section of the web. This would enable a more integrated approach to information provision and would help to see work being conducted within and between convention clusters. We have an enormous overload of information coming at us and this could enable it to be managed in a way that helps everyone. The web could also be used as a place to collect good practices and allow for horizontal information provision between stakeholders across the world and governments. There needs to be an acceptance that the scientific research institutions remain independent from the state and from commercial interests. If this can be achieved then there will be a greater chance that the information and analysis produced is seen as trustworthy. One suggestion would be to create a science for sustainability "cluster" within the UN embracing inputs from UNESCO, UNEP, CSD, FAO, UNPF, etc, and other relevant creators/collators/recipients/consumers of science advice on sustainability which would provide collective and authoritative advice widely and openly to policy framing bodies at all levels.

Country Level Coordination for Environment and Sustainable Development.
National reporting would benefit from a harmonization of reporting systems not only to the conventions but also to other intergovernmental bodies (e.g. World Bank) and to donors. Guidelines, such as UNEPs "Draft guidelines for effective national environmental enforcement, international cooperation and coordination in combating violations of multi-lateral agreements" and their "Draft guidelines on options for enhancing compliance with multi-lateral environmental agreements" need to be more readily available, with training

where necessary, to assist governments and other stakeholders. Within the structure of the national reports there could be information on:

- ❑ Frameworks for planning and strategies.
- ❑ Capacity building requirements.
- ❑ Financing.
- ❑ Problems faced.
- ❑ National targets.
- ❑ Stakeholder involvement.
- ❑ Compliance.
- ❑ Legislative gaps.
- ❑ Common set of indicators for monitoring and review.

Global Accountability and Compliance. The common criticism of environmental conventions is the lack of mechanisms for effective enforcement and compliance with international norms. Compliance is closely related to the issue of accountability. In the re-design of global governance systems, it is important to bear in mind the need for new mechanisms to avert problems of non-compliance that undermine current global governance systems. A number of ongoing and proposed approaches could be instructive in the design of compliance mechanisms. They include the following:

- ❑ New approaches to "common but differentiated responsibilities", convention financing mechanisms and non-compliance procedures have provoked a shift in national attitudes to international reporting and monitoring:
- ❑ The development of collective review procedures, such as the non-compliance procedures of the Montreal Protocol, use non-confrontational techniques to overcome impediments to compliance, and these have proven more effective than the imposition of sanctions in many cases.
- ❑ A wide variety of formal and informal partnerships have developed for monitoring compliance with environmental norms.
- ❑ Compliance monitoring must be entrusted to one centralised body, such as a re-constituted Trusteeship Council or UNEP.

The enforcement in international environmental law could also learn from good practice in other international conventions. A good example of this is *Optional Protocol of the Convention of Elimination of all Forms of Discrimination Against Women (CEDAW, Dec 1999).* This gives individuals and groups / organisations the right to appeal to the UN CEDAW Committee should avenues be exhausted within their own countries. CEDAW countries have to report every 4/5 years to the Parties to the CEDAW Committee and at the same time stakeholders are allowed to present their alternative reports.

This places a form of peer group pressure on countries to report more accurately.[5] The present environmental conventions could adopt a similar approach for reviewing reports.

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[5] CEDAW Web Site (www.un.org/womenwatch/cedaw)

Another option to deal with compliance would be the establishment of an **environmental ombudsman.** Stakeholders could take their complaints to such a person if they couldn't find recourse in their own country. The Earth Council has been doing some work on this idea. The possibilities for this to be successful require a certain independence from governments. This can either be through a body such as the Earth Council or through the constitution of such a body within the UN e.g. International Court of Justice. Another institution that is not utilised properly is a country's **parliament**. It would be useful to produce a review of parliaments to see how they address sustainable development issues and draw up recommendations on how parliaments might be able to review national reports before they are submitted to the UN. To further enhance compliance of legislation an, **International Environment Court** could be utilised. This would require either the creation of a new body or enhancement of the Environmental Chamber of the International Court of Justice (rarely used) common regulations on international environmental liability would assist legal enforcement. **Regional bodies** and agencies could play a stronger role in monitoring and enforcing compliance to international agreed standards; regions (regional protocols annexes) should reflect incentives and sanctions

Involving Stakeholders in International Environmental Governance. There is a need for global governance systems to be more participatory, transparent and accountable. It is imperative that civil society be more actively engaged in those decision-making forums. More effective and systematic mechanisms are needed to ensure enhanced civil society involvement generally, especially for those groups who are underrepresented in the formal structures, but also in respect of those issues where civil society organisations possess important expertise.

Each convention has developed a set of norms and standards on how it interfaces with the different stakeholders. It is a good time to reflect on what each of the conventions norms are. A review of this would help set a standard through which would be of benefit to the process of integrating the involvement of stakeholders in the work of the UN Commission on Sustainable Development. Perhaps the most interesting is the Montreal Protocol where stakeholders have a formal role in the non-compliance procedure. A set of possible Good Governance Indicators to measure the level of participation in international governance is attached in the annex to the submission.

The World Summit on Sustainable Development process also offers an opportunity to look seriously at not only the way we are designing the involvement of stakeholders in the intergovernmental machinery but also in recognising that they will have a role in implementing many of these agreements. We therefore may have to use a toolkit of approaches to the involvement of stakeholders at all levels. This may range from consultation to dialogue to partnership and involvement in the decision-making process

to finally implementation. Participation needs to be founded on clearly defined principles (transparency, collaboration, learning, equity, flexibility), ground rules (for communication, procedures, agenda and issues of process, facilitation, reporting) and objectives (outputs such as report, actions plans, impact on "official" governmental processes). Effective participation at any level requires the active support from the facilitating body, including ensuring equitable access to: information (including policy-based, technical and scientific data); justice; funds; capacity building and training, in addition to creating the space for participation in decision-making and implementation.

Governments should continue to be encouraged to facilitate the establishment of *national multi-stakeholder forums, e.g.* National Council for Sustainable Development, which would be set up to offer:
❑ Outreach, for consultation and feedback, to their constituencies in the country;
❑ Development of guidance on implementation strategies within a country;
❑ Review: Development of national reports;
❑ Development of national targets for policy, strategies and future implementation.
National multi-stakeholder forums have developed differently in different countries. For them to be seen as independent from government is a crucial indicator of whether their input will be taken seriously by the stakeholders in their countries. The Earth Council has done some interesting work in this area. As an approach to organizing multi-stakeholder dialogues, UNED Forum (2001) has a step-by-step guide.

6.   Enhanced Coordination across the United Nations System

In recognition that environmental policies cannot exist in total isolation from human activities, one proposal is to integrate the work of UNEP and UNDP. Since UNDP carries operational functions, which UNEP does not, it might offer an opportunity to further integrate environmental elements into development operations. In relation to other UN Agencies, Agenda 21 was full of recommendations for the UN Agencies and Programmes. One of the problems has been to try and ensure that these agencies place sustainable development and Agenda 21 at the heart of their work. Some of the ways this might be approached beyond 2002 are:
❑ The Inter Agency Committee on Sustainable Development (IACSD) to produce a report on implementation of Earth Summit 2002 each year for the CSD and for governments to review it. This will create the opportunity for holding UN agencies and programmes answerable in a forum other than their own governing councils.
❑ The UN Development Group (UNDG) to be empowered to produce reports on implementation at the national level.
❑ All relevant UN agencies and programmes commit to the follow up of World Summit 2002 through requiring a standing agenda item on their governing council's meetings up to 2012.

As regards the establishment of new bodies within and outside the UN system to address sectoral environmental issues, there is no doubt that bodies such as UNEP, UNDP, the Commission for Sustainable Development have played important roles in promoting the sustainable development agenda. However, the main problem as concerns the establishment of new bodies within and outside the UN relates to the overall lack of coordination and coherence between these entities.

Another matter of priority concern is the extent to which Bretton Wood's Institutions (BWI) such as the World Bank and the IMF are increasingly engaged in the formulation and delivery of sustainable development policy and programmes. There is continuing tension between those bodies and the UN system to ensure that the sustainability goals articulated by central UN bodies such as UNEP and UNDP and the CSD are indeed respected and promoted within the Bretton Woods institutions. On numerous occasions high-level officials of those bodies have asserted the paramountcy of the BWI and refused to adhere to the policy guidance expressed by many of the key Conferences of the Parties (COPs).

The Role of the Commission on Sustainable Development. A strengthened and enhanced role for the CSD is urgently needed. Touching on the need to tighten the implementation of recommendations and commitments, one proposal is for the relevant institutions, stakeholders and governments to make specific commitments and outline strategies during the CSD sessions and report back on their progress the following year. This would help ensure better follow-up of CSD recommendations that have been endorsed by the General Assembly. For the period beyond 2002, the need for more joined up thinking between the CSD and the other UN commissions that are actively involved in monitoring aspects of Agenda 21 and whatever comes out of Earth Summit 2002 will be very important.[6]

The Possibility of Utilising the Security Council. Under the Charter of the UN, the functions and powers of the Security Council allow for it: "*to maintain international peace and security in accordance with the principles and purpose of the United Nations*". The World Resources Institute (WRI) argued that this allows for issues of environmental security to be brought to the Security Council. WRI went further, by suggesting that under articles 22 and 29 of the UN Charter, a Standing Committee on Environment and Development should be created which as one of its tasks, would raise in the Security Council, issues of environment and development that could undermine international peace and security." It is only recently that the issue of environmental security has come further up the political agenda. UNEP's Global Environmental Outlook Report (GEO) 2000, registered for the first time, that environmental refugees are now a greater number than those caused by conflict. The GEO 2000 report also highlighted other issues that might cause conflict in the future where we will see two thirds of the world's population

[6] For more on the Commission on Sustainable Development, see, Felix Dodds, the Future of the Commission on Sustainable Development, November 2001

by the year 2020 living in water stressed areas. NATO and other bodies are now seriously looking at environmental security issues - so should the Security Council.

The Impacts of Globalisation. More attention must be directed towards understanding how economic globalisation is fundamentally changing the nature of environmental management, and what measures are needed to mitigate the adverse impacts. On the one hand, globalisation heightens the influence of market forces, most importantly, competition, on the making and enforcement of environmental policy. On the other hand, globalisation subjects national environmental policy to the discipline – or chaos- of international institutions.

The impacts of globalisation on environmental management capacities cut two ways: they constrain governments and they enhance the influence of markets on social and economic outcomes. Markets in turn influence environmental performance through a variety of channels, including technology transfer, changes in the level of demand for environment-intensive goods, substitution effects, green consumerism and others. Rather than triggering a downward spiral, the primary impact of globalisation is to keep environmental policy initiatives "stuck in the mud". On the one hand, the constraints of competitiveness induced by globalisation retard the capacity and willingness of nation-states to take any unilateral measures, which impose costs of good environmental management on domestic producers. On the other hand, the pressures of policy convergence mean that measures, which are taken, will only be those in step with primary competitors. The net results are first, that markets become the primary drivers of changes in environmental performance, and second, that environmental managers are pressured to maintain the status quo or to change it only incrementally.

Many groups are keen to see a better integration of environment and social development within the regulation of global trade. One proposal to make this more explicit is for the negotiation of a new Agreement on Trade Related Environment Measures. A second proposal is to set into motion a process to "mainstream" environment and social priorities throughout the WTO's constitutional rules, agreements and legislative frameworks. Environment and development experts could be brought into WTO panels and appeal to institutions to ensure a more integrated approach to dispute resolution and decision-making. The wider participation of key stakeholder groups within dispute and negotiation processes would also help ensure a more open and legitimate process. A full assessment of the WTO's relationship with the hundreds of bilateral trade agreements that currently exist and are being newly created could be undertaken. In particular to take account of the implications of these agreements for sustainable development and fair trade. Another proposal, referring explicitly to improving fair competition and good / sustainable conduct between corporations is to formally agree a framework convention on regulating transnational corporations e.g. along the lines of the OECD guidelines for multi-national corporations.

The Role of the World Trade Organisation (WTO). Sustainable development is also defined as an objective of the WTO, however social and environmental concerns continue to take a back seat when it comes to taking decisive action on trade decisions. It is felt that the WTO provisions to protect human, animal or plant life and health (e.g. as referred to in Article XIV of the Agreement of Trade in Services) are inadequate measures to fully account for costs incurred (directly and indirectly) by the misuse and over use of both human resources and environment goods and services.

Trade rules and regulations tend to assess the impact of sustainability upon their mandated functions (i.e. how sustainable development impacts the liberalisation of trade) and do not address the impact of their objectives on sustainability. Therefore, whilst social and environmental arguments should not be used as a "protectionist" disguise for imposing national trade restrictions – free trade should not be given precedence over these essential considerations. The internal democratic framework and transparency underlying these institutions has been widely questioned.

Particularly, relating to the level of participation, frequency, scheduling and feed back of meetings, the status of informal meetings and lack of technical assistance have all been called to question.

Towards enhancing the sustainability of the global trading system, the WTO should apply the following principles within its frameworks, rules and agreements:
- Integration of immediate, long term and potential global economic, social and environmental concerns.
- Set development and poverty eradication as core aims of trade, and regulate trade toward enabling greater social equity.
- Respect for workers' rights and labour standards within these agreements.
- Regulation of world markets should also include the conditions for investment and fair competition, e.g. a convention on Multi-national Corporations.
- Sustainability Impact Assessments (covering environment, basic rights, poverty) of future trade policy, agreements, programmes.
- To address areas of potential conflict between trade policy and multilateral agreements e.g. through the establishment of a referral body to resolve disputes between trade law, customary law on human rights and multi-lateral agreements.
- Enhancing principles of democracy, participation and good governance within the WTO's architecture e.g. develop a system of accreditation for different stakeholders to observe and even participate in Committee and Council meetings, ensuring that stakeholders are balanced by region and sector.
- To provide capacity building for governments to enable their effective deliberation of trade policy and to better carry out technical cooperation to implement agreed policies e.g. through an enhanced Technical Cooperation and Training Division.
- Encourage public and parliamentary scrutiny of negotiations and agreements at national and regional levels e.g. publicising who is accountable to take decisions for

a country at the international level, which member states spoke on particular issues and support particular positions, who is present in Green room meetings. To define criteria about when confidentiality is justified.

❑ Consultations (for evaluating trade policies and negotiations) should allow for stakeholder and parliamentary participation. A system of accreditation should be developed to allow for stakeholder observance in Committee and Council meetings.

❑ Governments should disclose all written evidence, agreements and payments received from all stakeholders (private sector, trade unions, NGOs, etc) relating to trade negotiations.

❑ Establishing the Implementation Review Mechanism as a permanent institution to assess the progress in implementing particular agreements.

World Bank and IMF. A key proposal for the Bretton Woods Institutions (BWI) to ensure these institutions take better account of sustainability is to bring them back under the auspices of the UN, therefore making those institutions directly accountable to the broad mandate for sustainability that the UN supports. This might also help to ensure greater tie-in of processes that cross over, where countries have committed to act but are facing problems in terms of prioritising and lack adequate capacity to implement. For example, the Poverty Reduction Strategy Papers (PRSPS), of the WB's enhanced HIPC initiative could contribute a large part of the framework necessary for development of a National Strategy for Sustainable Development (which governments have committed to implement by 2005). One proposal to tackle this it to utilise the findings of the OECD Development Assistance Committee (DAC) pilot initiative, which looked precisely at the issues of tie-in between PRSPs, Country Assistance Strategies and National Strategies for Sustainable Development (NSSD's) could be expanded to all countries.[7]

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[7] The sixth paper in this series, due for release in January 2002, will focus on economic governance for sustainable development

Annex 1:
Examples of Good Governance Indicators to measure the level of participation[8]

Participation	• Existing policies and programmes of the institution to encourage participation of the civil society in the development of a particular process • Relationship between the institution and stakeholders in the development of programmes/policy • Level of engagement of stakeholders in the development process. • Level of awareness among the institutions staff on the importance of civil society participation in the development process • Gender sensitiveness in the participation process • Policies and programmes of the institution to encourage the participation of all stakeholders irrespective of their age, sex, language, economic condition, and religion • Sensitivity of the institution towards the importance of participation in general and from within a gender perspective in particular
Rule of law	• Existence and adequacy of the rules and regulations related to partnership with stakeholders • Fair and impartial enforcement of the existing rules and regulations in dealing with the stakeholders • To what extent the concerned parties (governments, stakeholders and the institution) adhere to the rules and regulations • Concern shown by the institution to take action against parties for violating rules and regulations
Transparency	• Level of transparency on the allocated budget and procedures for partnership with stakeholders • Access to information and processes for stakeholders to participate in the development process • Transparency on selecting stakeholders for partnerships • Transparency in assigning contract/work to stakeholders
Responsiveness	• Mechanism to ascertain the capacities of the various stakeholders and enter upon partnerships or involve accordingly • Ease of access for stakeholders involved in a programme or policy decision to work with the institution • Opportunities for stakeholders to take active part in the development process • Accommodating various categories and sizes of stakeholders • Gender sensitiveness of the institution in dealing with stakeholders
	• Practice reaching stakeholder consensus in major, important and strategic decisions

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[8] Adapted from UNDP The Urban Governance Initiative
http://www.tugi.apdip.net/Report%20Cards/Overview/Overview.htm

Consensus orientation	• Institutional mechanisms to consult stakeholders • Gender sensitiveness in consensus orientation • Involvement of the key stakeholders in decision-making processes. • Execution of the joint decisions
Equity	• Institutional priority of resource investment to mobilise stakeholders and work in partnership and collaboration with them. • Opportunity for stakeholders of all categories to contribute and work freely. • Concern shown by stakeholders to respect and network among each other irrespective of their size and capacity • Extent of gender sensitiveness in mobilising and working in partnership with stakeholders • How the institution deals with stakeholders of various categories including CBOs
Effectiveness & efficiency	• Extent of mobilisation of involvement of stakeholders for the development of a programme or policy. • Situation of the partnership and collaboration between the institution and the stakeholders. • Networking and collaboration among stakeholders • Extent of mobilisation of the resources from the stakeholders • Cost effectiveness in the activities undertaken by stakeholders
Accountability	• To what extent does the institution realise they are accountable for what they do. • To what extent do the stakeholders realise they are accountable for what they do. • To what extent the grievances and complains are entertained by the institution or overarching authority • What legal provisions are exist to compensate for negligent conduct • Examples of demonstrating accountability by the institution
Strategic vision	• Availability of long-term or mid term programme and policy to mobilise and work in collaboration with stakeholders. • Reflection of the partnership programme with the stakeholders in the annual development programme and budget of the institution. • Availability of statistical information or profile of stakeholders involved • Regular updating of the information on stakeholders • Evaluation of the performance of the stakeholders

Annex 2:
WHAT Governance Programme

As of the 1st of October, UNED Forum, the World Humanity Action Trust (WHAT) and GLOBE Southern Africa have joined forces to co-ordinate a joint programme on Governance for Sustainable Development in the run up to the September 2002 World Summit on Sustainable Development in Johannesburg, South Africa.

The WHAT Governance Programme is seeking to build clear definitions and proposals on new frameworks of global governance to better meet the principles of sustainable development in a globalising world, where "governance is the framework of social and economic systems and legal and political structures through which humanity manages itself".

The WHAT Governance Programme seeks to inform, share ideas and identify key recommendations to help push forward the debate on global governance in the run up to, during and beyond the Johannesburg World Summit on Sustainable Development in 2002. The key objectives of the Governance Programme are:

❑ To initiate debate and research on global governance issues in the area of sustainable development in preparation for Earth Summit 2002 in particular the UNEP Ministerial Governance Working Group on International Environmental Governance.
❑ To input the ideas in the WHAT report, "Governance for a Sustainable Future" and the work of the WHAT Commissions (Water, Governance, Fisheries and Genetic Resources) into Earth Summit 2002 processes.

The envisaged process for the Governance programme is to involve a global, broad based audience with an interest and stake in the outcomes of the governance debates at the World Summit on Sustainable Development. The Governance for Sustainable Development Programme will be complemented by a website with background materials, links, conclusions/ recommendations from seminars and workshops as well as an email discussion listserver.

Key Outputs
❑ A published manuscript on governance for sustainable development.
❑ A web site with all the information available on UN Institutional Architecture for sustainable development.
❑ Development of a list server and discussion groups on the issues.
❑ The production of at least 4 briefings on governance for sustainable development.
❑ Reports with recommendations to the Earth Summit PrepComs and other International governance meetings/events.
❑ A multi-stakeholder advisory group for the Programme.

Activities

To enable input to the global governance issues for Earth Summit 2002, the following activities have been identified:

- ❑ Create a web site which will be named the WHAT Global Governance Resource Centre;
- ❑ Create a database of the key people and organisations interested in global governance;
- ❑ Organise a list server to expand the outcomes from the workshop into fuller proposals;
- ❑ Input regularly to the UNEP Ministerial Ad Hoc working group on institutional reform.
- ❑ Organise workshops on global governance issues at the preparatory meetings for Earth Summit 2002 and the Summit itself. In particular:
- ❑ Workshop around the Financing for Development 4th PrepComm on economic governance for sustainable development in January 2002.
- ❑ Organise a workshop on global governance for sustainable development parallel to the Second Preparatory Meeting for Earth Summit 2002 in January 2002.

Multi-Stakeholder Advisory Group

As part of this programme, UNED Forum/WHAT and GLOBE Southern Africa will establish an Advisory Group. The advisory group will consist of a cross-sectoral spectrum of professionals active in contributing to the shape of the global environmental governance and sustainable development agenda, and in particular its impacts on the outcomes of the World Summit on Sustainable Development. The advisory group will be selected on the basis on regional representation, major groups, and gender and race balance. The work of the Advisory Group will be conducted mainly via email communication.

The main functions of the Advisory Group are as follows:
- ❑ Ensure a diversity of opinions in relation to governance for sustainable development debates, options and future strategies.
- ❑ Provide strategic input into the direction and focus of the series of workshops on governance for sustainable development.
- ❑ Share information in relation to governance for sustainable development.
- ❑ Provide strategic guidance in relation to the manuscript on governance for sustainable development.

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