Governance for Sustainable Development: Outcomes from Johannesburg

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[1] From January 1st 2002 **Stakeholder Forum for Our Common Future** changed its name from **UNED Forum**

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Rosalie Gardiner

The key official outcome from the World Summit on Sustainable Development (WSSD) is the multilaterally agreed "Plan of Implementation". This document lacks much by way of a clear structure and strong commitments but considering all that was staked against it, the agreement managed to produce more than many could have expected. Chapter X on "*Institutional Frameworks for Sustainable Development*" deals exclusively with issues of governance. The chapter presents commitments which support enhancing governance systems for sustainable development at all levels. This article takes a broad overview of the key governance outcomes throughout the Plan of Implementation. The introduction of the chapter states:

"*Measures to strengthen sustainable development institutional arrangements at all levels should be taken within the framework of Agenda 21 and should build on developments since UNCED, and should lead to the achievement of, inter alia, the following objectives:*
(a) Strengthening commitments to sustainable development;
(b) Integration of the economic, social and environmental dimensions of sustainable development in a balanced manner;
(c) Strengthening of the implementation of Agenda 21, including through the mobilization of financial and technological resources, as well as capacity-building programmes, particularly for developing countries;
(d) Strengthening coherence, coordination and monitoring;
(e) Promoting the rule of law and strengthening of governmental institutions;
(f) Increasing effectiveness and efficiency through limiting overlap and duplication of activities of international organizations, within and outside the United Nations system, based on their mandates and comparative advantages;
(g) Enhancing participation and effective involvement of civil society and other relevant stakeholders in the implementation of Agenda 21, as well as promoting transparency and broad public participation;
(h) Strengthening capacities for sustainable development at all levels, including the local level, in particular those of developing countries;
(i) Strengthening international cooperation aimed at reinforcing the implementation of Agenda 21 and the outcomes of the Summit." (paragraph 121, Plan of Implementation)

This paper does not focus solely on Chapter X but takes a broad overview of the key outcomes of the Plan of Implementation of relevance to issues of governance.

Indicators of Political Will

First, it is useful to highlight some key factors which give an indication of the degree of political will behind the Summit and the level of support for building up effective institutional frameworks for sustainable development.

1. References to international targets

All of the key Millennium Development Goals (MDGs) are referred to in the Plan of Implementation. Although some of these have been weakened from commitments made elsewhere, including the target on biodiversity, it is encouraging that there are 20 new targets in the agreement (Box 1). However many of these targets are weakly worded, and lack clear obligations. Also two time-bound targets on renewable energy and energy subsidies were negotiated out of the text. The target for producing National Strategies on Sustainable Development (NSSDs) by 2005 was kept in the text despite a push by the US at WSSD Prep Comm 4 to exclude it. Active proponents, such as Hungary and Norway, fought to retain the reference – although they did concede the 2002 target for initiating production of NSSDs in order to retain it. The US was criticised

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Box 1. New international targets from WSSD
- **Health:** education (47.e)*
- **Water**: sanitation (24); Integrated water management and efficiency plans (25).
- **Ozone depletion**: Montreal Protocol fund (37.b); alternative substances for developing countries (37.d).
- **Small Island Developing States**: Global Programme of Action for the Protection of the Marine Environment from Land-based Activities (52.e); Sustainable tourism (52.g); Energy (53.a).
- **Africa**: food security strategies (61.a)
- **Sustainable production and consumption**: 10-year framework of sustainable consumption & production programmes (14).
- **Oceans and fisheries**: ecosystem approach (29.d); fish stocks (30.a); Manage fishing capacity (30.d); illegal, unreported and unregulated fishing (30.d); Fishing practices, establishment of marine protected areas (31.c); State of the marine environment report (34.b).
- **Chemicals**: human health and the environment (22); conventions on Prior informed Consent (Rotterdam) and Persistent Organic Pollutants (Stockholm) (22.a); International chemicals management (22.b); system for classification and labelling (22.c).

* Ref in text

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during the Summit for its lack of willingness to commit to a number of targets. However, as one US official stated "*I don't*

know of a goal that has protected a child from a waterborne disease or provided energy to village. Goals do not by themselves bring about change or results". One cannot help sympathize with this view that it is pointless to agree to a target that will not realistically be met. However, it is equally valid to argue that we need targets to create momentum, and to provide an end goal that can then be broken down into intermediate steps and work programmes which will help make the targets deliverable - as the EU has committed to do.

2. The relationship between the WTO and UN.

The Multilateral Environmental Agreements (MEAs) and trade agreements were pitted head to head at the Summit. The US was pushing hard for the WTO agreements to take precedence over environmental agreements. Indeed the WTO Dispute panel has often ruled that the MEAs are inconsistent with the rules of free trade. However, The EU and G77 succeeded in retaining the status quo i.e. uncertainty. Agreement was reached to adopt the ambiguous terminology of promoting "mutual supportiveness" between the two regimes. This outcome outlines a real tension and institutional overlap, particularly in relation to future resolution disputes between international agreements that exist within and outside the UN. During the negotiations a delegate from Tuvalu remarked that governments could agree what they liked about the superiority of WTO agreements over MEAs – since his country was not a member of the WTO it would not effect their position on the importance of MEAs. Equally, countries like the USA could use the same argument regarding their lack of obligation to the Biosafety or Kyoto Protocols as compared to their trade commitments in pharmaceutical, agriculture, energy and industrial sectors.

3. Financial commitments.

Whilst there were a number of financial announcements during the Summit, much of this money was recycled from commitments made at previous international meetings, such as the UN Finance for Development conference. Little commitment was seen with regards to additional ODA provisions from key donors, such as the USA. The EU was more progressive, outlining a timetabled plan for how member states would aim to reach the ODA target of 0.7% GDP by 2010. Debt relief and cancellation are also weakly addressed. The ever controversial term Global Public Goods was removed from the text and replaced by the watered down commitment to examine "issues of global public interest". Foreign Direct Investment, cited by some as a major alternative to ODA, in and of itself is unlikely to entirely meet the needs of the poorest in society or fully protect the environment, and as long as this is the case there will always be a need for global public funds to help support these vital areas.

4. The Rio Principles.

The Rio Principles outline some of the core elements of good governance for sustainable development, and were one of the major outcomes of Rio. However, it seems that ten years on Governments could not resist the opportunity to renegotiate what had already been agreed. The Principles were one of the most contentious areas of the text. In particular, resolution could not be reached on the inclusion on the Precautionary Principle (Principle 15), the Principle of Common but Differentiated Responsibility (Principle 7) and the Ecosystems Approach. The problems in negotiations were so extreme that a conflict resolution – contact group – was set up to deal exclusively with the Rio Principles. During this discussion, reference to adopting the Precautionary Principle in regards to biodiversity conservation was dropped. The US and Japan also pushed hard for watering down the wording to the Precautionary "Approach". This is particularly worrying due to the implications on areas such as production of Genetically Modified Organisms, and the potential hazards therein. On Principle of Common but Differentiated Responsibility the Developed states argued that it should only refer to environmental, not development matters, creating an impasse between developed countries and the G77 governments. A reference to Principle 10 (access to environmental information, public participation in decision-making, and access to justice). In the end much of the debacle was resolved by a more general restatement of commitment to the Rio Principles as a whole. However, the general result is a fairly poor reflection about the need for wide application of these Principles. The negotiations on the Principles offer a clear case for the accusations that a number of the outcomes of the Summit were regressive.

Governance outcomes

All of the above suggests that it was a tough process even to retain the status quo, that political will in favour of sustainable development was shaky to say the least. However, looking more specifically at governance issues, the Plan of Implementation does detail some broad commitments for institutional enhancement. This includes six areas:

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

1. Institutional strengthening and capacity building (Box 2)

Throughout the text there are commitments to help build up institutional capacity for sustainable development, from legal issues, through to education and trade. A special emphasis is placed on institutional strengthening in Africa, including commitments to NEPAD (New Plan for African Development), to build up technological capacity, as well as environmental institutions. The next phase of NEPAD will be held under close scrutiny. Of particular interest will be the degree to which NEPAD ensures transparency and support for participation of stakeholder groups in NEPAD's development, implementation and monitoring.

> *Box 2. Key references to Institutional strengthening and Capacity building*:
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> Marine and Coastal Biological Diversity (31.b); Protection of the Marine Environment from Land -based Activities (32.a); Vulnerability, risk assessment and disaster management (35.b, 35.c); Intellectual property regimes (52. k); Africa and NEPAD (56.b); Africa and science and technology (56.d); Africa and Research (56.e); Africa and Environmental legislation (56.h); Africa and Disaster management (59.a); Africa, Urbanisation and human settlements (65); Partnerships (118); Developing countries and Technology transfer (100.b); Developing countries and Health (110); Developing countries and Centres of excellence (119); Developing countries and Capacity 21 (119.bis.a, b, c, d); Developing countries and market information (45.quater); Developing countries and Environmentally sound technologies (99.b)

The Plan also renews support for UNDP's Capacity 21 initiative. UNDP has relaunched Capacity 21 as "Capacity 2015". It seems to be applying lessons from Capacity 21's past experiences, to encourage better linkages between National Strategies for Sustainable Development and Poverty Reduction Strategies. Also it has made a shift of emphasis away from the national level towards building capacity at the local level.

> *Box 3. Key references to Integrated and ecosystems appraoched*
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> *Integrated management of natural resources*
> General (23); Oceans and Coasts (29.b, 29.e, 29.g); Fisheries (30.g); Agriculture (38, 38.b); Forests (43.f); CBD 42.a); IWRM (60); West Africa and IWRM (72); ICT (63).
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> *Key references to Ecosystem approach*
> Fisheries (29.d, 31.c); Biodiversity (42.e); Sustainable Tourism (64.b)

2. Integrated management and ecosystem approach (Box 3)

A key governance principle coming out of the Rio Earth Summit is the need for integrated management of natural resources. The Plan of Implementation makes some specific commitments to support integrated management of natural resources. It states "*Managing the natural resources base in a sustainable and integrated manner is essential for sustainable development*" (para 23.) and includes commitments for integrated management of coastal zones, land, and water. There is also a strong commitment to biodiversity in para 42.a that calls for the adoption of the ecosystem approach, as well as for the integration of the Convention on Biological Diversity (CBD) principles into national economic policies and international financial institutions. However, there is no consistency to this approach in the rest of the Plan. Indeed the chapters deal with issues in a 'ring-fenced' manner, so that debate was unlikely to be conducive to adopting a more integrated approach in any case. It also seems that governments continue to disagree about the idea of interdependence between all ecosystems – one of the failings of the Summit. The WEHAB papers (Water, Energy, Health, Food and agriculture, Biodiversity) produced by the Secretary General for the Summit provide a useful example of how the Plan could have adopted a more integrated approach. They raised the absolute need for an integrated approach on to the radar screen of Governments – in this respect they were very useful documents.

Key processes coming up may help further mobilse these principles, including the Convention on Biological Diversity (CBD) which will be a focus of the GA in October, and on its agenda in November as part of the follow-up to the Summit. Also the third World Water Forum in Kyoto (2003), World Parks Congress (2003), and the CBD COP 7 (2004, and interim meeting in 2003) will be taking place. Other important processes include the further development of the Global Programme

of Action and the implementation of Integrated Water Management Plans target (2005) involving groups like the Global Water Partnership.

3. Legal and regulatory frameworks (Box 4)

There is a strong emphasis in the Plan on national responsibilities to enforce "*clear and effective laws that support sustainable development*". Some key commitments are made in support of strengthening the legal and regulatory architecture for thematic issues. On forests for example governments commit to "*Take immediate action on domestic forest law enforcement and illegal international trade in forest products, including in forest biological resources, with the support of the international community, and provide human and institutional capacity-building related to the enforcement of national legislation in those areas…*" (para 43.c). There are also calls for ratification of agreements, including the 1982 agreement on Straddling and Highly Migratory Fish Stocks, and the Rotterdam Convention on Prior Informed Consent (PIC) Procedures for Certain Hazardous Chemicals and Pesticides in International Trade, Stockholm Convention on Persistent Organic Pollutants (POPs), as well as the Kyoto Protocol to the Climate Change Convention. There was also a push for a new "*international regime to promote and safeguard the fair and equitable sharing of benefits arising out of the utilization of genetic resources*", to be incorporated into the CBD, and linked to progressing the Bonn Guidelines. Progress in Kyoto was perhaps the most surprising with commitments to ratify the Protocol from Canada, Mexico, China and Russia. Russia's commitment was particularly significant since it contributes 17% of all developed country CO_2 Emissions – and will certainly help the steady progress towards the Protocol's final enforcement. However, without other key players, such as USA and Australia, it is unclear whether that will be a sufficient level of Carbon Dioxide reductions to fulfillment the (albeit limited) targets of Kyoto.

> **Box 4. Key references on legal and regulatory frameworks:**
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> Energy 8(e); Production and Consumption (15); International financial institutions and energy (19.j); Chemicals (22); Water (25.b); Law of sea (29.a); Fisheries (30.b); Radioactive wastes (33.bis); Ozone (37.b); Land and water use rights (38.i); Grasslands (39.g); Forests 43(c, 43.f); Corp. accountability and responsibility (45.ter); Foreign Occupation (97, 98); Environmentally Sound Technology (99); National responsibility (146); Public participation (146.bis); Institutional frameworks (145.a).

Forthcoming meetings include the COPs for Kyoto in October 2002, PIC in 2003 and POPs in 2004, which will give a better indication of whether governments were serious about making further progress. Improving coordination between MEAs was left largely untouched by the Summit, thus further opportunities will depend on the work of UNEP and its Interlinkages and Synergies Unit.

4. Partnerships (Box 5)

Recognition of vital role of partnerships was a key outcome from the Summit. The Plan indicates the degree to which partnerships have been prioritised by governments, indicating that "*implementation should involve all relevant actors through partnerships, especially between Governments of the North and South, on the one hand, and between Governments and major groups, on the other, to achieve the widely shared goals of sustainable development…such partnerships are key to pursuing sustainable development in a globalizing world.*" (para 3.). The Plan explicitly endorses partnership initiatives "*by all relevant actors to support the outcome of the World Summit on Sustainable Development*" (para 138). The Commission on Sustainable Development (CSD) is identified as the key global fora to "*serve as a focal point for the discussion of partnerships that promote sustainable development, including sharing lessons learned, progress made and best practices*". Multi-stakeholder processes were also identified in the Plan as an important approach, including for agriculture and within the UN regional economic commissions. These are

> **Box 5. Key references to Partnerships**
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> Partnerships - general (3, 118, 150); Agriculture production and food security (6.j, 6.k); Drinking water and adequate sanitation (7.f, 24.c); Energy (8.g, 19.t); Corporate environmental and social responsibility and accountability (17.b, d) workplace partnerships and programmes (17.d); transport (20.b); Waste (21); Chemicals and hazardous wastes (22.d); Integrated water resource management (25.g); Fisheries (30.g); GPA (32.a); Vulnerability, risk assessment (35.g); Agriculture (38.h, 38.j); Tourism (41.a); Biodiversity (42.f); Forests (43, 43.f); Mining, minerals and metals (44.a); Globalisation (45.ter); Health care (47.e, 47.l); Health impacts of air pollution (49.a); SIDS and Climate Change (52.j); SIDS and Environmentally sound energy (53. a); NEPAD and marine environment (56.i); NEPAD and energy (56.j.i); Latin America and Caribbean South – South cooperation (68); Trade (90); Doha and Monterrey commitments (93); Tech-transfer (100.a, 100.c); Science and technology (102, 103.e); Education (107.b); Partnerships (118.); Developing partnerships (119.c); Earth observation technologies (119.septies.c); UN CSD (127, 128, 130.b); WSSD follow-up (138); regional commissions (143.b, 143.d); Sustainable development councils (147); Local Agenda 21 (149); Youth (153).

valuable statements but lack clear frameworks by which partnership processes will actually be supported. Concerns were raised not only by NGO's but also some Governments about the poor connection between the Plan and "Type II" Partnership Initiatives, and whether Type II's were being used by governments to relinquish the burden of responsibility for implementation and place it entirely on the shoulders of the "partners". This concern was further fuelled by the strong support of the US to Type II matched by their seeming lack of commitment to the Plan of Implementation. A number of

NGOs also indicated they were worried about several references to public-private partnerships (PPPs), in sections on: agriculture, energy, water, and trade. Such groups suggested that PPPs may not be suitable for all sectors and may not lead to sustainability outcomes. They called for a more flexible and accountable approach in developing partnership initiatives according their needs.

Multi-lateral institutions are slowly beginning to take on board the need to support involvement of different actors, but this will need to be considerably improved, not only within the CSD, but also the WTO, the WB and IMF, UNEP and the UN more generally. Some 220 partnership initiatives were launched during the Summit. Including the Implementation Conference, convened by Stakeholder Forum, which initiated 26 new partnership initiatives. These and new iniatives will need to be supported by governments, including within a revised "partnerships" format in the CSD which clarifies the rules and principles for joint activities. One proposal is to use the interim years before the official CSD session to convene stakeholder dialogues to discuss and review the issues of the previous year's official sessions. This would mean that governments could be more directly involved in the discussion and debates and clarify the real barriers and priorities for implementation. The partnership sessions could also address how can stakeholders work better together to tackle ongoing and emerging problems.

5. Coordination and Cooperation (Box 6)

There remains a considerable degree of cross-over, duplication and conflict over the governance of many key issues. These problems will only be tackled through greater vertical and horizontal integration of dialogue and decision-making across organisations. The Plan contains a number of references calling for improved coordination. The section on ECOSOC also creates an opportunity for strengthening this approach, where governments have committed to "*Increase its role in overseeing system-wide coordination and the balanced integration of economic, social and environmental aspects of United Nations policies and programmes aimed at promoting sustainable development*". The CSD was also requested to

> *Box 6. Key references on Coordination and Cooperation*
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> Energy (19.s, 19.u); Water (28); Wetlands (31.e); Sustainable fisheries (30.g, 29.f, 29.g); Oceans (29.b, 29.c); Child labour (12); Energy (19); Water resource management (27); Vulnerability, risk assessment and disaster management (35.j); Climate change (36.f); Earth observation (land, atmosphere and oceans) (36.h); Air pollution (37); Narcotics (38.n); Sustainable agricultural production and food security (p); Mountains 40 (a); Tourism (41.a, b); Biodiversity (42.q); Forests (43.e, f, i); Globalisation (45.c); Trade (45.quinquies); HIV/AIDS (48.a); Africa (56, 56.b); Regions (66); Latin America and Caribbean 68; WTO (84.d, 91, 91.c); Doha and Monterrey (93.a) International law (98.); Earth observation technologies (119.septies.a); UN system (124, 134, 136); regional commissions (142).

foster greater coherence in implementation and partnerships. The section on Water (para 28) is particularly strong, calling on governments to "*Promote effective coordination among the various international and intergovernmental bodies and processes working on water-related issues, both within the United Nations system and between the United Nations and international financial institutions, drawing on the contributions of other international institutions and civil society to inform intergovernmental decision-making...*". The UN System is called to establish an effective, transparent and regular interagency coordination mechanism, including on issues such as oceans and coasts. Whilst strenthening the role of the UN Environment Programme (UNEP) was endorsed at the WSSD, including a commitment to provide more effective environmental coordination for the UN sysytem at large – nothing new was developed in this area beyond the commitment that had already come out of the UNEP Governing Council meeting in Cartagena earlier in 2002.

The UN new track on reform is being launched at the UN General Assembly – The Secretary General has released his report on "Strengthening the United Nations: An Agenda for the Future" which touches upon the need for better coordination within the UN, as well as streamlining the institution. In his report he notes that a vast 15,484 meetings and some 5,879 reports were produced during the two-year period (2000-2001). He calls for more coordination and alignment of activities to priorities in order to reduce the heavy burden placed on countries. The conclusions of two key UN research programmes should help support this process of enhancing the UN's effectiveness and focus. The UN University's "Inter-linkages Initiative" makes some key proposals on enhancing international environmental governance and the UN WIDER "Governing Globalization - Issues and Institutions" report which deals with the relationship of the UN Economic bodies, the WTO and the IFIs. In addition it will be a crucial testing time to see whether the Multilateral Environmental Agreements and the WTO's committees on trade and environment, and trade and development are able to make any progress in clarifying their relationship. Furthermore, that clear steps will be take to advance the role of UNEP as the "environment arm" of the UN.

6. Good governance (Box 7)

As already mentioned commitments to take forward the Rio Principles were fairly poor. Unfortunatey, references to human rights, another important area of good goverance, are also few and far between. In spite of this, principles of accountability and transparency do appear several times in the text, particularly in relation to key sectors, e.g. water, energy, finance and trade. At the national level the Plan states that good governance is essential and should be based on:

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

In terms of accountability the Plan commits governments to ensuring the completion of the UN Convention against Corruption. The Ad-hoc Committee on the Convention Against Corruption, negotiating the Convention, must reach a conclusion by the end of 2003. In addition the UN Millennium Project will seek to improve transparency on the MDGs, through monitoring and reporting on national progress. The project has already undertaken 12 national pilot reports on national progress in implementation.

> *Box 7. Key references to good governance*
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> *Transparency and Accountability:*
> Consumer information (14.e); Corporate responsibility and accountability (17, 122.f); Energy (19.o); Chemicals and hazardous wastes (22); Partnerships (25.g); Oceans and coasts and UN (29.c); Mining, minerals and metals (44.a); International trade and finance institutions (45.b, 80.a, 80.b); Industrial sector in Africa (56.g); Water supply and sanitation (60.a); Public/private sector financing mechanisms (80.e); Trade and domestic regulation (93.c); Issues of global public interest (108); Implementation of Agenda 21 (121.g); Reform the international financial architecture (123); Administrative and judicial institutions (146); Environment and human rights (152).
>
> *Human Rights*
> General (5); rights of workers (9.b); Food (38); Standard of living (38.a); land and water (38.i); Indigenous knowledge (42.j); Intellectual Property Rights (42.r); Health (47); NEPAD (56.a); Right to Development (5, 56.a, 120.bis, 152); Land and resources (61.b); Medicine (94); UN Charter (96); Social services (96); Self Determiniation (97, 98); Good Governance (120.bis); Environment and human rights (152).

In relation to corporate governance, voluntary initiatives remained the preferred option. This is far from the "framework agreement" on Trans-National Corporations (TNCs) that NGOs, such as Friends of the Earth, were demanding. However, a new consensus is emerging, especially from the EU and G77, on the need for mandatory standards, opening the way for future discussions on legally binding global standards for business. Those groups campaigning for a more legally binding approach for TNCs will continue to press for it at the next World Economic Forum and during the WTO meeting in Mexico in 2003. A ten-year work plan for sustainable production and consumption was initiated, with clear implications for business. A new version from the Global Reporting Initiative (GRI) corporate sustainability reporting guidelines was launched at the Summit. GRI is expanding its work by developing guidelines for specific sectors, and the EU is considering whether to establish the GRI guidelines as mandatory corporate reporting processes.

Looking ahead

The Plan says that good governance should apply to all levels. As Kofee Annan states in his report, "*good governance at the local, national and international levels is perhaps the single most important factor in promoting development and advancing the cause of peace*". Yet there are some major fault lines running through current governance systems that make good governance and implementation of sustainable development very difficult. Much of this tracks back to the sovereignty of the nation state. The challenge will be for countries to reconcile the call for global interdependence with their own national issues and priorities. Tony Blair, in his statement to the Summit, said "*we know the problems and we know the solution is sustainable development*", but without the political will to face up to some of these more challenging and fundamental issues sustainable development will remain a distant dream. Significant change needs to take place in the CSD, and more fundamentally elsewhere, to re-instill confidence in the process. The follow-up meeting of the CSD early next year must be used as an opportunity to initiate the next steps in strengthening governance frameworks for sustainable development. The story is not all doom and gloom. The shift towards a more balanced and joined-up approach to environmental, development and economic arenas is significant. This will need to be supported by a move away from tackling issues, such as climate change or human rights, in isolation, as well as bringing wider representation from different government departments to international meetings. If some of these things start to happen then we might begin to move from merely the idea of global interdependence to establishing real mechanisms for actually doing it.