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INTGLIM* Recommendations for the 11th Session of the Commission on Sustainable Development

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The Commission on Sustainable Development (CSD) is mandated to integrate the social, environmental and economic pillars of sustainable development. The 15 functions and goals for the CSD adopted by the General Assembly in A/RES/47/191 are as relevant today as they were in 1993. The extraordinary achievement of Agenda 21 should remain the primary focus of the CSD. The disappointing performance of the CSD in the last six years reflects the failure of governments much more than it does of the Commission. We hope the Johannesburg Plan of Implementation (JPOI) can help revitalize and reinforce Agenda 21.

Although it remains an institution of soft law, the CSD must have greater capacity to effectively monitor the progress of governments and international institutions in meeting sustainable development commitments.

In addition, the CSD should be able to initiate processes that address issues neglected in other multilateral forums and institutions and the remaining significant gaps in international sustainable development law. The CSD should consider developing subsidiary bodies and processes during its next 10-year cycle of work. Following are recommendations, some from our report² for Rio +5 that should be considered.

The CSD Should Establish Task Forces and Subcommissions

The CSD should be expanded to include enhanced subsidiary mechanisms such as those utilized in other commissions and UN bodies, including inter alia working groups, optional protocols, rapporteurs and subcommissions. The subcommission modality offers distinct

* The International NGO Task Group on Legal and Institutional Matters (INTGLIM) was formed as a legal and institutional issues caucus in 1991 at the end of the second Preparatory Committee session for the UN Conference on Environment and Development (UNCED). During the 1992 Earth Summit, the task group served as the primary NGO caucus that developed the proposal, and generated support for, the establishment of a UN Commission on Sustainable Development (CSD). Since 1992, INTGLIM has continued to operate as an informal network and convened meetings and briefings on legal and institutional issues, and on related topics in the CSD and general UN reform processes. For the Johannesburg Summit in 2002, INTGLIM focussed on governance for sustainable development and international environmental governance. INTGLIM also served as a legal and institutional issues caucus addressing NGO access and participation, Type 2 Partnerships, corporate accountability and other governance issues. INTGLIM is co-chaired by the International Secretariat of the World Federalist Movement (WFM) and the Center for Development of International Law (CDIL).

² Pace and Verheij, *Renewing the Spirit of Rio, the CSD, Agenda 21 and the Earth Summit +5* (1997). Available at: <<http://www.igc.org.habitat/csd-97/riointro.htm>>.

advantages over ad hoc and more restricted modalities utilized by the CSD. These advantages include greater focus, capacity to designate funding for the work of the subcommission and the ability to attract high-level government representation, non-governmental expertise and media attention.

The Secretary General's (SG) report, "Follow-up to the World Summit on Sustainable Development and the future role of the Commission on Sustainable Development: the implementation track"³ (February 2003), recommends that subcommissions be employed as part of the proposed CSD policy years. Paragraph 45 proposes:

Other intersessional initiatives and consultative processes could be organized by interested Governments or other parties, including international organizations and major groups. During the Summit process, a number of proposals were made regarding the creation of issue-oriented time-bound subcommissions or task forces involving a limited number of representatives of countries, international institutions and major groups to provide inputs to the Commission. Such subcommissions or task forces, if initiated and funded by interested parties, could make valuable inputs to the work of the Commission and raise the profile of sustainable development issues in the public eye.

The SG envisions that major groups could have a role to play in these task forces or subcommissions in the report's paragraph 76:

Engagement of major groups should not be limited to meetings of the Commissions. For example:

(a) Intersessional activities initiated by interested Governments and international organizations with a view to producing conclusions and recommendations on specific issues or goals, such as expert group meetings or subcommissions and task forces as described above, should include representatives of major groups;

The INTGLIM recommends that member states consider the advantages of establishing subcommissions on specific long-term areas of its work. The following are suggestions for possible CSD subcommissions:

- **Subcommission on Country Reporting**
Similar to the Commission on Human Rights and Committees, a Subcommission on Country Reporting could systematically review member states' progress on implementing Agenda 21 and the JPOI.

This subcommission could also create a template for national reporting and look into other ways to standardize and simplify reporting procedures.

- **Subcommission on Finance and Financial Mechanisms for Sustainable Development**
Promoting linkages between the CSD and the International Financial Institutions on global financial policies and financing for sustainable development is one of the most important subject areas for the establishment of a subcommission. The development of

³ UN document E/CN.17/2003/2, Report of the Secretary-General: Follow-up to the World Summit on Sustainable Development and the future role of the Commission on Sustainable Development: the implementation track, February 21, 2003. Available at: <<http://ods-dds-ny.un.org/doc/UNDOC/GEN/N03/261/56/PDF/N0326156.pdf?OpenElement>>.

innovative or independent financial resources for sustainable development and innovative UN funding should be included in work of this subcommission. If a subcommission or inter-governmental panel on financing sustainable development is established, consideration of qualified limited membership criteria, or adopting weighted-voting procedures for limited aspects of its decision-making should be considered.

- **Subcommission on Corporate Responsibility and Accountability**

The CSD needs to address corporate accountability and the enormous impact of transnational corporate activity and financial flows on sustainable development. Paragraph 49 of the JPOI calls for the promotion of corporate responsibility and accountability. A Subcommission on Finance and Financial Mechanisms for Sustainable Development could contribute towards the development of a binding convention on Corporate Accountability. We whole-heartedly support the Sweden's proposal for a subcommission or task force on this issue.

This subcommission could also address questions surrounding criteria and guidelines for Type II Partnerships.

Another related issue to be addressed through a subcommission could be transnational corporation (TNC) reporting. A **Subcommission on Transnational Corporation (TNC) Reporting** could also contribute to the implementation of JPOI's paragraph 49 directive to "support continuous improvement in corporate practices in all countries."

- **Subcommission on NGOs and Major Groups**

Creation of a "major groups" subcommission as a cross-sectoral, inter-regional forum for NGOs and major groups should also be considered. A "civil society forum" subcommission of the CSD could be mandated, for example, to focus initially on the goals of the above-proposed financial subcommission. In other words, the CSD should consider letting NGOs and civil society attempt to develop proposals and solutions to the calls for enhanced overseas development assistance and "new and additional resources" in which governments have been largely unsuccessful. The subcommission would also be a forum where the relatively new and still controversial concepts of "major groups," "civil society" and "stakeholder" and others, could evolve within a positive political environment.

- **Subcommission on Indicators for Sustainable Development and Consumption and Production Patterns**

Chapter III of the JPOI calls for the development of a 10-year framework for programs for sustainable consumption and production. This subcommission could take into account the various work being done on this issue, such as the International Experts Meeting in Marrakech and other regional forums and meetings scheduled to address this issue.

Additional recommendations on the ECOSOC and its functional commissions relevant to CSD 11

- Each of the ECOSOC functional commissions needs to be significantly strengthened. They may remain primarily institutions of soft law within ECOSOC, but must have

greater capacity to effectively monitor the progress of governments in meeting conference commitments.

- In order to address the cross-sectoral nature of many conferences' outcomes, each functional commission should be granted a role in reviewing and ensuring that world conferences' implementation efforts are harmonized with one another and abide firmly within the frameworks established. Through these considerations, mutual interests and complementary efforts may be identified.
- Functional commissions should review the relevant work and reports of other institutions, including the Bretton Woods Institutions, the World Trade Organization and other multilateral organizations.
- It is the right of heads of states and summits to determine follow-up to these meetings and processes. Policy statements by lower level officials, "forbidding" automatic reviews has not been properly considered and discussed. It may well be that some processes do not benefit from automatic +5 and +10 conferences and, therefore, flexibility in this should be exercised. However, prohibition of review mechanisms serves the goals of those governments and private interests with a minimalist agenda for future UN processes. We fear that the "conference prevention" agenda of some powerful nations, north and south, may be a precursor to "implementation prevention."
- We welcome the efforts to strengthen of the role of ECOSOC. It is time that ECOSOC fulfill its mandate as originally envisioned in the UN Charter: to deal with economic and social issues with the same authority that the Security Council addresses peace and security issues. Elevation of ECOSOC is a goal that many NGOs would share and to which many international, regional and national NGOs can bring enormous expertise.