

**INTGLIM COMMENTS FOR WSSD FOLLOW UP SURVEY
WSSD's Sustainable Development Partnerships and the Participation of Major Groups
November 2002**

The CSD and WSSD processes deserve to be complemented for employing some innovative practices for NGO participation. However, unfortunately there is a widespread perception that the CSD was ineffective in the 1990s. The WSSD is also widely perceived as a failed summit process.

INTGLIM shares the view that NGOs' input to the CSD since the mid-1990s has had minimal impact. Ironically, some NGOs – from both North and South - maintain that it was in this time period that the CSD had it's the greatest achievements.

In the view of INTGLIM, the CSD NGO Steering Committee became more of a negative force than a positive force especially during the years 1997-2001. INTGLIM remains concerned that NGOs that contributed to the dynamics causing the CSD NGO Steering Committee's demise, continue to take up political space in this post-WSSD period. Although these dynamics were not present in the Bali PrepCom and Johannesburg Summit, INTGLIM fears that the acrimonious relations between NGOs and caucuses in the CSD process could reemerge and continue to undermine future sessions of the CSD.

WSSD outcomes for CSD

No matter how one evaluates the strengths and weaknesses of the CSD over the past ten years, in the WSSD, governments took the decision to downgrade the CSD. INTGLIM regrets not seeing the CSD significantly strengthened by the Johannesburg Summit.

During the Johannesburg preparatory process, INTGLIM recommended that the CSD could maintain it's status as an institution of soft law while being granted a greater capacity to effectively monitor the progress of governments and international organizations in meeting their "Type 1" sustainable development commitments. INTGLIM suggested that the CSD receive regular reports and presentations from other commissions and UN bodies charged with implementing various aspects of sustainable development.

INTGLIM has also argued that the CSD would be an appropriate institution to be able to initiate processes for identifying remaining and emerging gaps in international sustainable development law, financing for sustainable development, corporate accountability and other topics not being addressed in other multilateral forums and institutions. It would be constructive if the reduced meeting time for the CSD allow for the study of these issues the WSSD did not conclude perhaps through subcommissions and utilizing a hearing approach.

Instead of strengthening the role of the CSD in implementation of sustainable development, the CSD has been reduced to being a forum for WSSD "Type 2" partnership outcomes. Future development of the CSD must include empowering the institution to play a monitoring and regulatory role in partnerships for sustainable development. Unfortunately, there is a question as to whether NGOs will see a drastically reduced CSD as worth giving attention to.

Follow up to the WSSD & NGO participation in the work of the CSD and GA

The Rio "Earth Summit" was a watershed in NGO/UN relations, bringing hundreds of civil society organizations into constructive and ongoing relationship with UN system. After UNCED it was agreed that NGOs accredited to the Summit would be given the right to continue to follow the implementation of the work of the Earth Summit processes. NGOs need to be allowed to participate in the sustainable development work and negotiations of the General Assembly and in all other follow-up forums for the WSSD Plan of Implementation. Arrangements for NGOs' participation should be in accordance with the CSD and ECOSOC Resolution 1996/31.

Major Groups

The UNCED and CSD processes introduced the "Major Group" model for involving NGOs in international forums. However, there were flaws and contradictions in the conceptualization of major groups that have never been properly addressed. DESA and governments ought to do an assessment of whether the major groups model is working.

One of the problems with the major groups model is the identification of "NGOs" as one of the nine Major Groups, when in fact, all members of major groups enter into intergovernmental forums legally as NGOs. Another problem with the Major Groups model is that some sectors, such as educators and the aging population, were excluded. An additional issue is that even within a Major Group there can be tremendous diversity, for example within the Farmers and Business and Industry Major Groups.

It appears to INTGLIM that the main supporters of continuing the major groups and "stakeholder" processes are those who have a minimalist agenda for the UN and CSD and who in fact seem to favor a privatization agenda.

Concern about integration of the private sector

INTGLIM is particularly concerned about problems arising from the inconsistent accreditation practices employed for-profit organizations or other non-NGO entities of civil society to UN convened preparatory processes and events. We are also concerned about the special treatment of the private sector by the UN. We strenuously object to a General Assembly process directly accrediting for-profit organizations. The practice of legally treating members of Major Groups differently from NGOs presents legal contradictions that governments, the UN and NGOs need to consider.

During the 3rd Johannesburg PrepCom, the INTGLIM became cognizant of the fact that two for-profit organizations had been directly accredited to the PrepCom through modalities established for NGOs. At the initiative of INTGLIM, a number of NGOs wrote a letter to Under Secretary General Desai to express concern that accrediting non-NGO entities, such as private businesses, individuals, as NGOs set a controversial and dangerous precedent. Our, and many other NGOs', concern was that this practice undermines the legal rights of NGOs as established ECOSOC decision 1996/31. We also argued that this practice went against the original definition of NGOs in Article 71 of the UN Charter, re-affirmed in many UNGA and ECOSOC resolutions.

We do not object to the access and participation of for-profit organizations or other individuals, academic departments of universities, etc. given their potential role in contributing to implementation of sustainable development. However, for-profit entities should not be grouped together with NGOs in the same category. Rather, representatives of business and industry, academia or other major groups should participate through their own associations such as the World Business Council for Sustainable Development and other associations established as NGOs.

For the immediate future, in those bodies that "accredit" or draft legal arrangements for NGOs and civil society actors in the UN, it should be accepted that, as a rule, major groups, stakeholders and their representatives come in as NGOs.

Fortunately, after the 3rd PrepCom the practice of directly accrediting for-profit organizations or other major group entities to the WSSD seemed to have been ceased. However, INTGLIM received no formal response from the WSSD Secretariat regarding our concern expressed in the letter to Under Secretary General Desai. Considering the current trend towards UN collaboration with the private sector, INTGLIM will remain vigilant in protecting the legal basis of NGOs rights of participation.

Multistakeholder Dialogues

The CSD has been, and should continue to be, an innovator in its use of new modalities for NGO and Major Group involvement in UN bodies, such as NGO-Government Dialogues, NGO Plenaries, roundtables, NGO speaking rights, and including, when appropriate, rights to attend and contribute during drafting sessions. The Multistakeholder Dialogue (MSD) process needs to be evaluated. INTGLIM welcomes the official integration of a forum where NGO and major groups perspectives can be formally offered to the inter-governmental process. However, INTGLIM is also concerned that the MSD segment served to marginalize and reduce NGOs' input instead of enhancing their contributions to negotiations.

The low government attendance at the MSDs in the Johannesburg process was a great frustration to many NGOs that labored to offer their input. To many NGOs, the poor attendance was a sign that governments did not take NGOs' input seriously. With the WSSD process now completed it is clear that the impact of the MSD process was minimal.

Whereas historically NGOs have emphasized diversity and independence, recently, in international forums, NGOs are being pressured to develop consensus on issues and to speak with one or a few voices. INTGLIM cautions against NGOs agreeing to processes requiring NGO consensus. NGOs' many voices and perspectives is one of our great assets and our rights and processes for being heard must be protected. NGOs have been able to develop strong coalitions with shared positions and objectives in spite of coming from diverse perspectives and backgrounds. Two examples of powerful coalitions are the International Campaign to Ban Landmines [ICBL] and the Coalition for the International Criminal Court [CICC].

In regard to the future of the CSD, has an important role to play in facilitating NGO interaction with delegates. It would be a great loss if the CSD shifted in the direction of this trend towards asking diverse groups to come together and reduce their rich experiences and expertise into "common" statements. The CSD should promote and be a platform for diversity, not undermine NGOs' many voices. NGOs are not governments and should not have to come up with consensus language.

Stakeholders

INTGLIM cautions against hastily adopting the "stakeholder" approach. Stakeholder modalities and partnerships could offer important contributions for the CSD, as has the major group mechanism since UNCED, but these models do not provide clear and accountable criteria and procedures for determining accreditation in intergovernmental forums. Who is a stakeholder, and who is not, and who selects stakeholder representatives remains unresolved.

Like the term "major groups," "stakeholders" and "partners" seem to be the terms du jour. The problem with such references is that they have different meanings to different organizations and institutions. When we are discussing the rights and arrangements for legal actors in intergovernmental processes, INTGLIM believes that there are three basic classifications "government organizations," "international organizations" and "non-governmental organizations." To use undefined terms such as

“multistakeholders,” “partners” and “major groups” leads to controversy and can undermine legally established rights.

INTGLIM is particularly concerned about the increasing usage of the term “stakeholder” in place of “non-governmental organizations.” INTGLIM strongly cautions against moving away from the “non-governmental organization” legal and UN Charter basis for civil society participation with new and vague mechanisms such as “stakeholders” and “partners” that have almost no legal definition or basis. As discussed above, stakeholder and major group representatives in UN and other intergovernmental negotiation forums have always been accredited as non-governmental organizations as defined by the UN Charter, General Assembly and relevant ECOSOC Resolutions, in particular most recently ECOSOC Resolution 1996/31. There is no evidence that this procedure has restricted civil society or major group participation – in fact the opposite is true. The replacement of the terms “non-governmental organizations” and references to major groups with “stakeholder” and “partnerships” could lead to confusion and dramatically reduce NGO and their Major Group rights and legal basis in the UN and WSSD follow-up processes.

It is very important to protect the rights and the legal basis for NGO participation (including major groups, stakeholders, and other partners in promoting sustainable development).