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**INTGLIM Comments & Recommendations on
Sustainable Development and International Environmental Governance,
the CSD, the Rio Principles & the Role of NGOs**

**Contribution for the 4th Session of the Preparatory Committee for the WSSD
Bali, Indonesia
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**OVERVIEW OF SUSTAINABLE DEVELOPMENT AND
INTERNATIONAL ENVIRONMENTAL GOVERNANCE**

The World Summit on Sustainable Development (WSSD) is at risk of moving backwards on legal and institutional issues. Though governments and NGOs have advanced significant proposals about fundamental strengthening of Sustainable Development Governance (SDG) and International Environmental Governance (IEG), the current status of WSSD negotiations and documentation is being threatened by lowest common denominator forces that pose the danger that the Summit could result in regression.

The INTGLIM members feel that there needs to be an opening up of intergovernmental negotiations on the two inextricably linked issues of SDG and IEG.

The WSSD sustainable development governance and the United Nations Environment Programme (UNEP) international environmental governance processes have led to an unprecedented awareness among select expert groups of experts of the variety and severity of the governance problems and challenges confronting the international community at the beginning of the 21st century. The breadth, depth and richness of the discussions of governance options have been noteworthy.

INTGLIM welcomes the inclusion of SDG and IEG as primary issues within the WSSD process. And it is not too great an exaggeration to state that fundamental issues relating to the development of international democracy and global governance are inextricably bound up in this historical negotiation. For example, the international community needs to address the discrepancy between the governance capacities and authorities of existing “World Organizations” in such areas as trade, finance, health, and labor, but weak non-binding “Programmes” and “Commissions” as the institutional arrangements for the sustainable development and environment sectors.

In order to properly and fully address the governance issues and proposals, it is now clear that much more time for discussions, deliberations, and negotiations will be needed than is available

between now and the end of the WSSD in September 2002. Many governments, international and treaty organizations, and NGOs are only now realizing the significance and dimensions of the issues and proposals being raised. Therefore, INTGLIM hopes that the Johannesburg Summit will identify key principles and commitments for the fundamental strengthening of international sustainable development governance including international environmental governance. The WSSD Plan of Action should commence multi-year, high-level intergovernmental processes to address the main principles and commitments and to identify new or existing institutional governance mechanisms for their implementation.

In Johannesburg, the INTGLIM hopes that major decisions on SDG-IEG can be reached. However, if final decisions cannot be achieved or concluded, the INTGLIM hopes the Summit will identify specific intergovernmental processes and forums where these negotiations can be pursued. The UN General Assembly (GA), the Commission on Sustainable Development (CSD), and the UNEP Governing Council/Global Ministerial Environment Forum (GC/GMEF) are among these forums.

The Johannesburg Summit should instruct the General Assembly, as the highest inter-governmental body, to declare sustainable development as an overarching framework for UN development activities and give overall political direction to the implementation of Agenda 21 and the outcomes of the WSSD.

SUSTAINABLE DEVELOPMENT GOVERNANCE

Much has been written about the fragmentation and lack of coherence in the proliferation of multilateral environmental agreements (MEAs) and in the *ad hoc* and inadequate institutional mechanisms for international environmental governance. This same lack of coherence is evident in the existing system of Sustainable Development Governance.

Civil Society members of INTGLIM are unwilling to subordinate the more people-centered and democratic institutions of global governance to the authority of the less democratic, one dollar – one vote, decision-making structures of the international financial institutions (IFIs). Therefore, in advancing sustainable development governance, INTGLIM members strongly favor utilizing and strengthening the roles and authority of UN institutions.

General Assembly

INTGLIM members strongly endorse vesting the UN General Assembly, the supreme policy making body in the international legal order, with the role of creating coherence and harmonizing the differences in international standards and inconsistencies between environmental, labor, finance, trade and other international institutions that pertain to international sustainable development.

To this end, the INTGLIM supports, in principle, paragraphs 4 and 5 in the Vice Chairs' Institutional Framework for Sustainable Development paper:

Role of the General Assembly

4. The General Assembly, as the principal organ of the United Nations should adopt sustainable development as a key element of the overarching framework for UN development activities, particularly for achieving the internationally agreed development goals including the Millennium Declaration development goals and give overall political direction to the implementation of Agenda 21 and the outcomes of the WSSD and ensure that their implementation is regularly reviewed.
5. The General Assembly is invited to consider moving social issues covered under the "Copenhagen Agenda" from its Third to Second Committee as a step towards making the Second Committee a sustainable development committee.¹

Economic and Social Council

The INTGLIM members support strengthening the role of the Economic and Social Council (ECOSOC) and endowing it with sufficient authority on economic and social issues. In essence, after five decades it is time that ECOSOC be vested with comparable authority and resources over economic and social issues granted to the Security and Trusteeships Councils in relation to their work.

Additional INTGLIM's recommendations on ECOSOC:

- ECOSOC should encourage and, where appropriate, incorporate the innovative procedures advanced by the CSD.
- ECOSOC should consider convening meetings of the bureaus of its subsidiary and other relevant bodies for the purpose of enhancing implementation, coordination, and reducing unnecessary duplication of efforts.
- The UN System Chief Executives Board for Coordination (CEB) should convene a joint session between the bureaus on the implementation of Agenda 21.

Commission on Sustainable Development

The Commission on Sustainable Development should be significantly strengthened. The CSD may remain primarily an institution of soft law, but must have greater capacity to effectively monitor the progress of governments and international organizations in meeting sustainable development commitments. In addition, the CSD should be able to initiate processes that address the remaining significant gaps in international sustainable development law.

CSD must be empowered to tackle financing, corporate accountability and to identify other issues neglected in other multilateral forums and institutions.

¹ "Institutional Framework For Sustainable Development" paper prepared by the Vice-Chairs Mr. Ositadinma Anaedu and Mr. Lars-Goran Engfeldt for negotiation at the Fourth Session of the Preparatory Committee for WSSD, 8 May 2002. Available at: http://www.johannesburgsummit.org/html/documents/prepcom4docs/governance_8055_integ.doc

The CSD Should Establish Sub-commissions

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, sub-commissions, and rapporteurs. The sub-commission modality offers distinct 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 sub-commission and the ability to attract high-level government representation, non-governmental expertise and media attention.

The CSD should consider the advantages of establishing sub-commissions on specific long-term areas of its work.

INTGLIM recommendations for possible CSD sub-commissions

- *Sub-commission 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 sub-commission. The development of 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.
- *Sub-commission on Transnational Corporation (TNC) Reporting*
The CSD needs to be able to address such issues as corporate accountability and the enormous impact of transnational corporate activity and financial flows on sustainable development. In the context of the Johannesburg Summit, a number of NGOs are pushing for a binding convention on Corporate Accountability. At the least, a mechanism for transnational corporate reporting needs to be established by the WSSD process.
- *Sub-commission on Country Reporting*
Similar to the Commission on Human Rights and Committees, a CSD Sub-commission on Country Reporting could systematically review the member states' progress on implementing Agenda 21 and the WSSD Plan of Action.
- *Sub-commission 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" sub-commission 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 ODA and "new and additional resources" in which governments have been largely unsuccessful. The sub-commission 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.
- *Sub-commission on Indicators for Sustainable Development and Consumption and Production Patterns*

The imperative of addressing consumption and production is another area that could receive concerted and on-going attention through a CSD sub-commission.

Additional INTGLIM recommendations on the CSD:

- The Commission on Sustainable Development should remain a functional commission of ECOSOC, but given the overarching nature of Agenda 21, the Johannesburg Summit should reaffirm the CSD's particular role in ensuring that all world conference follow-up efforts abide firmly within the framework of sustainable development.
- The Johannesburg Summit should recommend that the CSD receive regular reports and presentations from other commissions and UN bodies charged with implementing various parts of Agenda 21. There is growing support for combining the work of other overlapping commissions into an enhanced CSD.

INTERNATIONAL ENVIRONMENTAL GOVERNANCE

INTGLIM is in agreement with general support for fundamental upgrade of the UNEP to a specialized UN agency. And most INTGLIM members support this process eventually leading to the development of a world or global environment organization.

Additional INTGLIM recommendations on IEG:

- UNEP should continue to play a key role implementing Agenda 21 and the WSSD Plan of Action, both as the UN's environmental agency and as a task manager for various issues.
- The Johannesburg Summit should consider recognizing the long-term need to upgrade the UN's or UNEP's global environmental authority, in particular relating to the need for the establishment of regulatory mechanisms to monitor and enforce compliance with global aspects of international environmental law.
- The regulatory and enforcement roles and secretariats could be independent and separate from the current UNEP programs.

Multilateral Environmental Agreements

The UNEP IEG process has inspired in depth analyses of options for Multilateral Environmental Agreements (MEAs) clustering co-location, pooling technical assistance and other means to streamline the increasingly unwieldy existing system of environmental treaties. The INTGLIM members encourage further consideration of, and action on, this issue.

Many NGO participants in the WSSD process express dismay with the growing imbalance between trade and environment in international governance where economic and trade concerns are given priority over environment and social issues. In addition, the existence of a World Trade Organization, without corresponding institutions for the environment and sustainable development, increases the risk that finance and trade institutions will set environmental policy and assume the role of arbitrators in environmental disputes. INTGLIM calls on UN member states to address this situation in the context of the WSSD.

INTGLIM recommendations on MEAs:

- Affirm the primacy of MEAs in relation to rules and provisions of the WTO.
- Promote the integrity of MEAs in international law.
- Strengthen monitoring, enforcement and compliance mechanisms within MEAs, and establish a compliance and dispute settlement mechanism that would allow for participation by NGOs, civil society and aggrieved individuals.

LEGAL ISSUES

INTGLIM is alarmed by the lack of references to the Rio Declaration and Principles in the documents being prepared for Johannesburg. The WSSD Political Declaration must affirm and advance the legal principles announced in Agenda 21. Reassertion of these Principles would help to address the concerns that the “corporate person has become more important than the human person.”²

The Johannesburg Summit must reaffirm for and enhance the legal standing of the Rio Declaration on Environment and Development. As with other UN declarations, governments should consider ways to elaborate legal principles for sustainable development, in particular those in the Rio Declaration.

INTGLIM recommendations on the Rio Principles:

- Reaffirm and enhance the legal principles set forth in the Rio Declaration. Especially:
 - Principle 15: Precautionary Principle
 - Principle 13: Polluter Pays Principle
 - Principle 22: Rights of Indigenous people and their communities
 - Principle 24: Protection of the environment in times of armed conflict
- New principles on subsidiary, decentralization and self-sufficiency could be elaborated.
- Legal discussions should commence on rights of petition, development of an Earth Charter, and further consideration of a global environmental framework treaty such as the World Conservation Union (IUCN) draft call for an “International Covenant on Environment and Development.”¹
- In renewing its commitment to the principles of the Rio Declaration and the central role of the UN in promoting international peace and security, the WSSD should consider ways of elaborating upon Principle 25: “Peace, development and environmental protection are interdependent and indivisible.”

² “We the Peoples Believe Another World is Possible.” A global campaign launched to stop further corporate takeover of the planet, governments and the United Nations. Target: one million signatures for Johannesburg. Full text available at: <http://www.twinside.org.sg/title/twr139j.htm>. Contact Third World Network (TWN) for further information, email address: twnet@po.jaring.my.

NGOs, CIVIL SOCIETY ORGANIZATIONS, MAJOR GROUPS AND STAKEHOLDERS

INTGLIM calls for the protection of the rights and the legal basis for NGO participation (including major groups, stakeholders, and other partners in promoting sustainable development).

Multistakeholder Dialogues

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 reduces and marginalizes NGOs instead of enhancing their roles in negotiations.

Stakeholders

INTGLIM is particularly concerned about the near elimination of mention of “non-governmental organizations” and even “Major Groups,” in WSSD documents, replaced by references to “stakeholder involvement” and “partnerships.” Stakeholder dialogues and partnership mechanisms could offer important contributions for WSSD and beyond, 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. INTGLIM strongly cautions governments and our NGO colleagues against moving away from the “non-governmental organization” legal and UN Charter basis for civil society participation in UN conferences and organizations with new and vague mechanisms such as “Stakeholders” and “Partners” that have almost *no legal definition* or basis. Stakeholder and Major Group representatives in UN and other intergovernmental negotiation forums have until PrepCom 3 of WSSD, always been accredited as non-governmental organizations as defined by the UN Charter, General Assembly and relevant ECOSOC Resolutions, in particular most recently 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. INTGLIM strongly urges governments and NGOs to correct this with clarifying language in the WSSD document.

Follow up to the WSSD & NGO participation in the work of the General Assembly

NGOs must be allowed to participate in the sustainable development work of the General Assembly and in all other follow-up forums for the WSSD agenda. Arrangements for NGOs’ participation should be in accordance with the arrangements in the CSD and ECOSOC Resolution 1996/31, the ECOSOC resolution delineating the consultative relationship and arrangements with NGOs (in particular, E/1996/31, Part VII, the section dealing with NGO participation in UN conferences).³

Over course of 1997-1998, INTGLIM, in consultation with NGOs from the North and South, drafted a UN General Assembly resolution on NGO participation that would extend modest, limited consultative arrangements for NGOs to the General Assembly. The INTGLIM **General Assembly NGO Resolution**⁴ maintains and protects the integrity of the GA and the UN Charter

³ ECOSOC Resolution “Consultative relationship between the United Nations and non-governmental organizations.” E/1996/31 available at: <http://www.un.org/documents/ecosoc/res/1996/eres1996-31.htm>

⁴ Information available at: http://www.worldfederalist.org/NGO/ngo_gareso.html

wherein a clear distinction is drawn between the provision of arrangements for consultation and those providing for a state or organization to have a negotiating role. Based on ECOSOC Resolution 1996/31, the proposed GA NGO Resolution calls upon the General Assembly to extend limited consultative arrangements to NGOs to the General Assembly, its Main Committees and, as appropriate, its subsidiary and ad hoc bodies. Passage of the resolution would also serve to standardized arrangements for NGO participation in GA Conferences and Special Sessions, thus eliminating hours of redundant UN deliberations renegotiating the same issues and language on NGO participation in UN meetings and conferences.⁵

Additional INTGLIM Recommendations on NGO participation:

- Governments should adopt special arrangements for NGO participation in General Assembly Conference and Special Sessions in accordance with the arrangements in the CSD and ECOSOC Resolution 1996/31.
- The Johannesburg Summit should reaffirm paragraphs 42-44 of Chapter 38 of Agenda 21.⁶
- The Johannesburg Summit should express support for continued development of new and innovative 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 CSD and the Johannesburg Summit should correct the misunderstandings and contradictions caused by conceptual inconsistencies in Section 3 of Agenda 21 "Strengthening the Role of Major Groups." In addition, consideration should be given to the addition of new sectors to the major groups category (i.e. educators, the aging). 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.

⁵ Information about the INTGLIM GA NGO Resolution, available at: <http://www.wfm.org/NGO/>

⁶ Agenda 21, "International Institutional Arrangements," section (L.) Non-governmental organizations:

38.42. *Non-governmental organizations and major groups are important partners in the implementation of Agenda 21. Relevant non-governmental organizations, including the scientific community, the private sector and women's groups, should be given opportunities to make their contributions and establish appropriate relationships with the United Nations system. Support should be provided for developing countries' non-governmental organizations and their self-organized networks.*

38.43. *The United Nations system, including international finance and development agencies, and all intergovernmental organizations and forums should, in consultation with non-governmental organizations, take measures to:*

- *Design open and effective means to achieve the participation of non-governmental organizations, including those related to major groups, in the process established to review and evaluate the implementation of Agenda 21 at all levels and promote their contribution to it;*
- *Take into account the findings of review systems and evaluation processes of non-governmental organizations in relevant reports of the Secretary-General to the General Assembly and all pertinent United Nations agencies and intergovernmental organizations and forums concerning implementation of Agenda 21 in accordance with the review process.*

38.44. *Procedures should be established for an expanded role for non-governmental organizations, including those related to major groups, with accreditation based on the procedures used in the Conference. Such organizations should have access to reports and other information produced by the United Nations system. The General Assembly, at an early stage, should examine ways of enhancing the involvement of non-governmental organizations within the United Nations system in relation to the follow-up process of the Conference.*