

GOVERNANCE AND CIVIL SOCIETY

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**United Nations Environment Programme (UNEP)
Civil Society Consultative Meeting on International Environmental Governance prior to
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Global Ministerial Environment Forum (GC/GMEF)**

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1. I know my charge is to relate the topic of governance and civil society to issues before the Seventh Special Session of the Global Ministerial Environmental Forum and to the agenda and goals of the World Summit on Sustainable Development (WSSD), but the issue of governance and civil society, and the issues of civil society and international environmental governance, must be considered in the larger context of global governance. And global governance in 2002 must be considered in the context of globalization itself.
2. Globalization is defined overwhelmingly and often exclusively in economic - finance and trade - terms. But, my organization, the World Federalist Movement (WFM), would argue that globalization has other manifestations and pillars - globalization of human rights, democracy, justice, and the rule of law. WFM believes that these forces of globalization are essentially positive and allow a tremendous opportunity to counter or reign-in the negative and dangerous forces of globalization.
3. For decades, however, global civil society has recognized and warned of the consequences of the inadequacies and failures of the international, intergovernmental negotiation process.
4. The rise of the role of civil society in international affairs in the last 20 years (I am not here speaking of the role of civil society organizations [CSO] at the national and domestic levels) has been praised as one of the most significant developments in international decision-making and governance in all history. How civil society organizes and develops its role over this next decade could, I believe, be one of the most determinative processes in international affairs for this century.
5. The globalization of democracy has not yet led to the conclusion that this will lead to international democracy - indeed one of the greatest ironies is that some of the most powerful national democracies are arguably the strongest opponents of international democracy.
6. Major issue is location and allocation of power of global governance.
7. Most powerful nations and transnational corporate, finance, and trade organizations are proposing that the primary location of global governance are the World Trade Organization (WTO) and the Bretton Woods Institutions.

8. Danger with this approach is that we are being asked to allow finance and trade ministers to have overall control of global policy on environment, sustainable development, human rights, and other aspect of social development.

9. Many are asking (some demanding) that the architecture of global governance be more balanced.

10. Thus, we greatly welcome the political space being given to the debate on the future of sustainable development governance in the context World Summit on Sustainable Development (WSSD) being held in Johannesburg August 24 through September 2, 2002. To the three pillars of sustainable development - economic, environmental, social - my organization would add a 4th pillar: the role of the non-governmental organizations (NGOs) of civil society.

11. I have the honor of serving as the chair of the International NGO Task Group on Legal and Institutional Matters (INTGLIM), an NGO working group and caucus that formed in the preparatory process for the 1992 Rio UN Conference on Environment and Development (UNCED). In the UNCED process INTGLIM monitored and promoted legal and institutional proposals, including the precautionary principle and the creation of the UN Commission on Sustainable Development (CSD) - two key elements of Agenda 21.¹ After UNCED, INTGLIM has continued to monitor processes addressing NGO rights to access and participation in the UN and UN General Assembly conferences and Special Sessions.² As INTGLIM co-chair, the World Federalist Movement has also participated in several sectors UN work, including environment and sustainable development, peace, disarmament, human rights, international justice and humanitarian and peace issues.³ NGOs and civil society organizations working in the context of the UN Environment Programme (UNEP) and the CSD could benefit enormously from emulating the methods of NGOs working in other sectors of UN activity.

Global Governance for the Environment and Sustainable Development

12. For the 1997 Rio+5 GA Special Session, INTGLIM prepared a report that addressed many of the governance issues being considered for the 2002 Rio +10.⁴ This report was widely un-welcomed in 1997, but now many of the issues and recommendations INTGLIM made five years ago are now ready to be taken into full consideration. I believe this change in five years' time is very hopeful.

13. It important to take note that the vast majority of NGOs do not have a governance mandate. Further, most large, international environmental NGOs tend to be organized in a compartmentalized and fragmented way that reflects the current environmental governance system.

14. It follows that most governing boards of international environmental organizations are likely to resist efforts to develop overarching governance and institutional mandates.

15. Thus, unlike in the fields of peace, human rights, disarmament where NGOs have very elaborate proposals for governance, in the environment and sustainable development sector, governments have more specific expertise and mandates regarding international governance. Therefore, in pursuing the formation of an international architecture for environmental governance, it could happen that large international environmental organizations would experience the same "turf" and relevance battles within their organizations that must be confronted and overcome in the international order.

¹ More information about the history of INTGLIM is available at <http://www.wfm.org/RELATED/INTGLIM.html>.

² More information on INTGLIM's work on NGO participation in the work of the UN is available at <http://www.wfm.org/NGO>.

³ More information is available at <http://www.wfm.org>.

⁴ Pace and Verheij, *Renewing the Spirit of Rio, the CSD, Agenda 21 and the Earth Summit +5* (1997), <http://www.igc.org.habitat/csd-97/riointro.htm>.

Role of Civil Society

16. A few recommendations regarding the role of civil society in governance.
17. Historically, the primary role of non-governmental organizations of civil society has been "consultative" rather than a "negotiating" and decision-making role. I would strongly caution NGOs to avoid changing this position without careful consideration. My organization believes that NGOs entering into a negotiating role could undermine NGOs' mandates and distinct purpose.
18. 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. Again, WFM cautions NGOs against agreeing to processes requiring NGO consensus. NGOs' "many voices" process and principle has delivered us to this historic juncture and we must be careful in changing this model. NGOs have been able to develop strong coalitions with shared positions and objectives in spite of coming from different basis (i.e. the International Campaign to Ban Landmines [ICBL]⁵ and the Coalition for the International Criminal Court [CICC].⁶)
19. Further, I would like to make a point about being careful not to undermine the existing legal basis of NGOs in the new and proposed modalities for our participation. Contrary to a growing body of thought, NGO is not perceived by all as a "negative" definition. In international, intergovernmental negotiations and historically there have been three categories of participants: the governments (GO), the representatives of international [treaty] bodies (IO) and all the others, NGOs. To begin to break down the non-GO and non-IO participants could become an immensely contentious process. In addition, I would point out that many of us do not see other "non" designations as negative, for example, non-violence, non-proliferation. Indeed, these "non" descriptions are positive and add clear delineations and definition.
20. Increasing numbers of us are describing NGOs as "civil society" or civil society organizations. But, there is no clear definition of civil society, whether it includes the private sector, religious or other private or inner-focused sectors and organizations.
21. The UNCED and CSD processes have introduced the "Major Group" model for involving NGOs in international forums. But, it is clear ten years later that there was a major contradiction in the conceptualization of the Major Group model in including NGOs as a major group, when in fact ALL major groups enter into intergovernmental forums legally as NGOs! Also, some sectors are excluded, for instance, educators and aging populations. Also, many point out that even within a Major Group there can be tremendous diversity, especially, for example in the farmers and business and industry Major Groups.
22. Multistakeholders. This is a new model for dialogue and participation. But, results to date are controversial and again defining who is a Multistakeholder, and who is not, remains unresolved. Who selects Multistakeholder representatives?
23. The International Labor Organization (ILO) and new tri-partite proposals. Many are now encouraging more consideration and use of the ILO tri-partite model for governance. This deserves greater attention, but one "partite" should make sure governments are willing to go along before proceeding to far. Also, in the UNEP proposal for legs consisting of NGOs, governments, business and industry, the composition and definition of each of the three legs must first be clear. Is labour with business and industry or with NGOs? In some negotiations, the "legs" may need to be flexible. For example, in the international environmental governance negotiations I cannot understand giving business and industry one of the legs, but I can see giving IO/treaty bodies a seat at the table.

⁵ More information about the International Campaign to Ban Landmines is available at <<http://www.icbl.org>>.

⁶ More information about the Coalition for the International Criminal Court is available at <<http://www.iccnw.org>>.

24. Note: WFM will not comment at this point on a key aspect of global governance - voting. However, this issue needs to be addressed in the context of governance discussions. One nation-one vote, one dollar-one vote are already existing "weights" in international governance voting. One person-one vote is not. Needless to say, all proposals for weighting votes are controversial, but this political challenge will need to be addressed by NGOs. Indeed, it is probably not possible for this important issue to be successfully overcome without principled agreement and lobbying by global civil society.

25. The United Nations has now 55-plus years of experience with NGOs' consultative involvement with many, many organs, agencies, departments, and programs. The diversity of this experience is briefly described in the Secretary General's 1998 report "Arrangements and practices for the interaction of non-governmental organizations in all activities of the United Nations system."⁷ The UN Economic and Social Council (ECOSOC) Resolution 1996/31 is the highest-level legal basis governing NGOs' involvement in the UN and its conferences and special sessions. It remains the bedrock for NGOs' rights and privileges. I would strongly caution against walking away from this legal foundation for our involvement. I believe the correct approach is for other models and modalities to be built on top of this foundation.

26. At the risk of reducing this point to utter simplicity, I also must point out that there are both "Inside" and "Outside" manifestations and strategies for NGO advocacy work. In this statement I have limited myself to discussing the "Inside" role of NGOs in international intergovernmental forums. But the larger political rights for NGOs acting in legal, non-violent forms of protest and petitioning governments must be respected and protected.

27. New Diplomacy-Human Security. Any discussion of civil society and global governance must refer to two extraordinarily successful processes: the so-called "New Diplomacy" (as illustrated by the Campaign to Ban Landmines process) and the advocacy of a new approach to national and international security that places the individual at the center, called "Human Security." These dimensions alone deserve much further elaboration in any discussion of governance and civil society, but here I unfortunately am just taking note of these historic processes.

28. In conclusion, let me invoke the precautionary principle in this discussion: do not throw out the richness of 55 years of legal, consultative regulations and practice in UN forums. Plurality has been as much a strength as a weakness, especially in the case of NGO participation. The governance of the international legal order is, in principle, organized in a diverse and unbalanced way. The world community will continue to solve the myriad of global problems in a myriad of ways through a myriad of institutions: trade different from environment, human rights different from disarmament, justice different from development. This reality will be with us for many years - and rightly so.

29. Two very under-resourced and under-empowered sectors, sustainable development and environment, both need dramatic increases in funding and strengthening of their governance structures. Different governance solutions will be necessary for different problems and forums. In addressing governance for the environment and sustainable development, I very much hope that NGOs will not fall into adopting the minimalist and contradictory agendas of governments and international organizations.

30. International Environmental Governance (IEG) and Sustainable Development Governance (SDG) should proceed parallel to each other. Amongst national and international representatives and employees there will be huge concerns and reservations. I hope NGOs will not be co-opted into any

⁷ Report of the Secretary General, "Arrangements and practices for the interaction of non-governmental organizations in all activities of the United Nations system," A/53/170. Available at <<http://www.globalpolicy.org/ngos/docs98/kofi998.htm>>.

turf battles on the side of one sector, international organization or another. I urge NGOs to oppose any movements towards the pitting of IEG and SDG against each other.

31. In the final analysis, the IEG and SDG debate must, as stated in the beginning of this paper, be viewed in the context of the dilemmas of the current system of global governance. How will governments resolve the growing conflicts in laws and standards between, for example, international environment, investment, labour, and trade standards? Where will governments choose to locate global governance and what powers will they invest in its institutions? Will governments continue to de-emphasize the United Nations and the supreme policy making and only universal forum of the international legal order: the UN General Assembly and its subsidiary bodies? Will governments continue to give credence to non-transparent, closed, undemocratic forums and processes for the allocation of power in global governance such as the WTO, the Bretton Woods Institutions, the G8, etc.? Will governments create a third-generation International Organization to succeed the League and UN? Whatever the answer, unlike 1919 and 1945, civil society NGOs will be a part of the decision-making process in a way that is unprecedented in history.

This statement draws upon the UNEP international environmental governance background papers and the following other documents:

Chee and Gemmill, *Designing a New Architecture for Global Environmental Governance*, published by the International Institute for Environment and Development, 2002.
Available at: <http://www.iied.org/pdf/wssd_21_international_environmental_governance.pdf>

Chee and Khor, *International Environmental Governance: Some Issues from a Developing Country Perspective*, published by the Third World Network, September 2001.
Available at: <<http://www.twinside.org.sg/title/ieg.htm>>

French, *Reshaping Global Governance*, Chapter 8 in *State of the World 2002*, Worldwatch Institute, 2002.
Available at: <<http://www.worldwatch.org/pubs/sow/2002/>>

World Wildlife Fund, *Emerging Agenda for the World Summit on Sustainable Development, 2002*.

UNEP International Environmental Governance documents.
Available at: <<http://www.unep.org/IEG>>

Lecture Paper: *Peace, Justice and International democracy: The Role of International NGOs in the 21st Century*, William R. Pace, Waseda University, Institute of Comparative Law, 1999.

The International NGO Task Group on Legal and Institutional Matters (INTGLIM) was formed as a legal and institutional issues caucus in 1991 at during the UN Conference on Environment and Development (UNCED). INTGLIM served as the primary NGO caucus that developed the proposal, and generated support for, the establishment of a UN Commission on Sustainable Development (CSD). INTGLIM has also helped organize informal NGO committees on the 6th and 5th Committees of the UN General Assembly, and an international coalition to support the International Criminal Court (ICC). For the Johannesburg Summit in 2002, INTGLIM focussed on governance for sustainable development and international environmental governance. Since 1993 INTGLIM also served as a caucus addressing NGO access and participation, legal arrangements for NGO/civil society in international fora, promoting corporate accountability and other UN reform issues. INTGLIM is co-chaired by the International Secretariat of the World Federalist Movement (WFM) and the Center for Development of International Law (CDIL). For more information, contact: wfm1@igc.org.