

Participatory democracy - HLPF laying the basis for sustainable development governance in the 21st Century

Modalities for major groups, Non-Governmental Organisations and other stakeholders engagement with the high level political forum on sustainable development

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For UNDESA/DSD
March 2014

Our times demand a new definition of leadership - global leadership. They demand a new constellation of international cooperation – governments, civil society and the private sector, working together for a collective global good.

UN Secretary-General Ban Ki-moon

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ACKNOWLEDGEMENTS

This study on “Modalities for major groups, Non Governmental Organisations and other stakeholders engagement with the high level political forum on sustainable development” was commissioned by UNDESA/DSD. The study has undergone two sets of reviews by DSD staff.

I am much indebted to these competent reviewers and to the many challenging comments and lucid interpretations of difficult UN legal and procedural issues that were made. The draft also benefitted from informal discussions with legally minded people within the UN system knowledgeable about ECOSOC and UNGA procedural issues.

The paper was also peer reviewed by Dr. Marianne Beisheim, of the SWP, Stiftung Wissenschaft and Politik, in Berlin, Germany, and by Steven Bernstein, Associate Chair and Graduate Director, Dept. of Political Science, University of Toronto, Canada. I am grateful to both of them for their invaluable comments.

The major conclusions from the study were also presented to an open meeting convened by UN DESA on Monday, February the 3rd in New York, at the beginning of the eight session of the Open Working Groups of the SDGs, when the Rule of Law and Governance were among the key agenda points. Some clarifications were made based on the ensuing discussion. The power point presentation is available at XXX.

However, this paper represents ultimately my personal findings, analyses and conclusions. These are not necessarily the opinion of UN DESA, my peers, or those who attended the meeting. Any error, any mistake, and any conclusion and statement found, is my responsibility and mine alone.

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Knapstad, Norway February 2014

Executive Summary

The High Level Political Forum (HLPF) has been called the preeminent unit within the United Nations to work with sustainable development issues for the next twenty years or so. It was formally established through UN General Assembly Resolution A/67/290 in July 2013. The resolution accords non-governmental organisations (NGOs) and major groups the most far reaching participatory privileges in the history of the UN. These privileges must be translated into operative modalities and outlining such possible modalities is the main task of this paper. Still, HLPF may be subjected to many different interpretations by UN Member States, and the next two years will to a large degree decide its proper organisational contours.

The principle expressed in paragraph 84 of the Rio Outcome Document, “The Future We Want”, that content and modalities of the high level political forum should be “building on the strengths, experiences, resources and inclusive participation modalities of the Commission on Sustainable Development”¹ (CSD) should be emphasised. All participatory rights and modalities afforded and utilised by the major groups during two decades at CSD, as outlined, enumerated and analysed in the present document should be reaffirmed in the proposed modalities for the HLPF.

This paper documents a vast number of issues affecting possible modalities for major groups, NGOs and other stakeholders working with and participating in HLPF sessions. Some delegations made it clear during the negotiations leading up to the final resolution on HLPF that the HLPF should be a privileged space for interaction between governments and major groups. Still, several paragraphs of the HLPF are formulated in such a way that HLPF and its future sessions may be deeply affected by rules of procedures pertaining to ECOSOC and UNGA, which may severely limit participation of NGOs and major groups.

A number of key documents and resolutions filed within the vast repository of the UN archives, deal with the role of non-governmental organisations (NGOs) at the UN in various contexts. These documents and resolutions will strengthen the case for the proposed modalities listed below. Each of these documents are discussed in the paper. Among the key ones are:

- Article 71 of the Charter of the United Nations granting Non Governmental Organizations, NGOs, a legal position at the United Nations in accordance with the approval of the Committee of NGOs at ECOSOC.
- The ECOSOC resolution on “Consultative relations between the United Nations and nongovernmental organizations” (1996²) outlining quality criteria for the accreditation of NGOs to the UN, rules of procedure and participatory modalities at the UN,
- Agenda 21(1992) establishing the nine major groups of stakeholders³ to widen the operability of NGOs to reflect the changing global political realities and further

¹ A/RES/66/288, “The future we want”

² Res. 1996/31, 25th of July 1996

³ Chapter 23 in Agenda 21 recognised by the UN GA resolution A/RES/47/190, in December 1992

reflecting the growing interest and expressed desire of non-state actors to participate in matters of sustainable development, at local, national, regional and global level,

- The Rio Outcome Document (2012), “the Future We Want”⁴ and its emphasis on integrating major groups and stakeholders into all activities on future global sustainable development, including the Sustainable Development Goals, (SDGs),
- Resolution A/67/290 establishing the High Level Political Forum for Sustainable development and its emphasis on major groups and stakeholders, including the participatory rights granted and major groups and stakeholders⁵,

Modalities for NGOs have developed since the first Rio conference in 1992 to allow NGOs and major groups participatory privileges. These modalities have gone through incremental developments as the UN and its processes have evolved over time. This is referred to in Paragraph 10 of the HLPF Resolution, through inter alia, the “Reference document on the participation of civil society in United Nations conferences and special sessions of the General Assembly during the 1990s”⁶.

It is important to note that the HLPF is convened according to paragraphs 6 and 7 of the HLPF resolution⁷, and that it will function under both the auspices of UNGA and ECOSOC. It is also imperative to understand how ECOSOC Rules of Procedure of 1992, Resolution 60/61 on Strengthening ECOSOC and rules of procedure pertaining to UNGA Committees plays a role in this context.

However, according to the UNGA resolution on HLPF, it shall function under the auspices of the UNGA and ECOSOC and HLPF meetings convened under the auspices of these bodies will operate under their rules of procedure as applicable, “except as otherwise provided in the HLPF resolution”.⁸

This may seem confusing, but the interpretation is that the HLPF resolution overrides UNGA and ECOSOC rules of procedure, and allows specific modalities to be developed.

Unless governments own intergovernmental processes, policies will never be taken seriously, and further, unless people feel ownership with development, little will be implemented.

Based on experiences gained from the two decades that the CSD was operational, and the collection of modalities regulating participation of major groups in the CSD, and utilising GA resolution 67/290 establishing the HLPF as the legal reference bases, a series of modalities can be proposed to govern major groups engagement in all HLPF sessions.

Modalities dictate the degree of engagement of major groups, NGOs and stakeholders in any intergovernmental process. Based on the analysis of HLPF which is expressed in this document concerning granting participatory privileges for major groups, NGOs and

⁴ A/RES/66/288, “The future we want”

⁵ A/67/290 “Format and organizational aspects of the high-level political forum on sustainable development”

⁶ ECOSOC 1995/201, Prepared by Office of the President of the Millennium Assembly 55th session of the United Nations General Assembly, Version 19 November 2002, <http://www.un.org/ga/president/55/speech/civilsociety.htm>

⁷ A/67/290 “Format and organizational aspects of the high-level political forum on sustainable development”

⁸ A/67/290 “Format and organizational aspects of the high-level political forum on sustainable development”

stakeholders, the following modalities for these groups are proposed – with the purpose of enabling the involvement of major groups, NGOs and stakeholders in all HLPF conferences and deliberations.

1. *Accreditation*

All non-governmental organisations -- i.e. members of major groups of stakeholders – that have a proven, explicit and substantiated interest in sustainable development and have worked on such issues for a reasonable period of time, should be afforded accreditation to HLPF meeting and conferences. Accreditation should be subject to normal UN procedure, either by accreditation to ECOSOC or DPI, or by being given ‘fast track accreditation’ subject to approval of the HLPF on the recommendation by the Division of Sustainable Development in (DSD-DESA). When reference is hence made to ‘all Major Groups of stakeholders’, it will mean those accredited to each specific meeting and conference of the HLPF;

2. *Access and attendance*

Access and attendance to all meetings must be granted according to Paragraph 15⁹ – except to meetings designated as ‘Closed’; This means that all accredited organisations shall be allowed to be present on the ‘floor’, and be allowed to sit in on all meetings, observe, take notes and informally speak with delegates irrespective of the designated status of the meeting: i.e. at delegate, Ministerial or at State Leader level; in none of these meetings must any accredited member from a major group or NGO be prevented from participating in movements on the floor and relegated to sit in the observer seats at the back of the conference rooms without access to delegates; Should pre-existing rules pertaining to areas of the UN buildings prevent such mobility, movement and access, as for instance applies to the Chambers of the Trusteeship Council or ECOSOC, such rules must be suspended during the HLPF sessions to allow ease of access for all accredited members of major groups, NGOs or other stakeholders. Should this prove impossible, all HLPF sessions and meetings must be held in areas of the UN that allow for such access, as was the case during two decades of meetings of the CSD (1992-2012) and during the entire preparatory process leading up to and through the Rio+20 process, including the UN Conference on Sustainable Development in Rio in 2012;

3. *Access to all documents, including background documents and outcome documents*

In line with Paragraph 15, all official UN documents with relevance to the current HLPF process shall be made available to all members of major groups during the meetings, its preparatory phase and during the follow up phase. Organising Partners of the major groups should be given negotiating texts as they evolve during the HLPF meetings;

⁹ All paragraph references here are to the HLPF resolution - A/67/290 “Format and organizational aspects of the high-level political forum on sustainable development”

4. *Making oral statements and comments in plenary sessions of the HLPF.*

In line with Paragraph 15, major group representatives shall be allowed to make different interventions and specific verbal comments to official documents in plenary sessions as well as opening and closing statements at the beginning and at the close of the each HLPF meeting. These activities would include:

- a. A three minute opening statement on the first day of the HLPF meeting based on the substance of a prepared background paper written by each of the major groups (see below) specifically focussed on the theme of the agenda;
- b. A three minute closing statement at the end of the HLPF meeting;
- c. Active and major roles in multistakeholder dialogues including organization and choosing of potential panelists;
- d. Inclusion of major groups' representatives to sit on panels addressing the plenary audiences when such panels are envisaged by the organization of work. In line with Paragraph 16 espousing the principle of self organisation, these representatives must be selected by the major groups themselves;
- e. Allocation of time to major groups during any of the HLPF plenaries to ask questions or comment on the ongoing deliberations. To be allowed to use an entry point, a speaker, identified by the Organising Partners of the major groups, in accordance with point 4h below, would have to identify himself/herself and identify the comment/question on a Request Slip. (A "Request Slip" would be a piece of paper on which major group representatives would briefly define the issue or question to be addressed, hand it to members of the HLPF secretariat who in turn would give the slips of paper to the Chair or to members of his or her staff, and advice the Chair to call upon the specific major group representative to speak. The information contained in the request slip would also include: name, title, to what organization and major group does the speaker belong, in addition to the question/theme to comment.)
- f. The major groups will be invited to speak during sessions, interspersed with Member States and representatives of the UN system and not only be given the floor for concluding statements at the close of the sessions.
- g. The major groups speakers will be recognized by the Chair by raising the sector name plate of the major groups. Interventions made during this sessions must be brief (2-3 minutes max).
- h. The identification of speakers among the major groups will be coordinated through the major groups Organising Partners and the caucuses of each major group, and should be communicated to the Secretariat the day prior to the session.
- i. The major groups would also be allowed to provide such interventions in the written form to the secretariat, which in turn will post them on the official UN HLPF website.

5. *Making timely interventions during “the deliberations resulting in a concise negotiated political declaration as well as during the deliberations resulting in a negotiated ministerial declaration”;*

Further in line with Paragraph 15, in order to respect the intergovernmental nature of negotiations and allow their interventions to provide effective input the HLPF outcome documents, each of the nine major groups should be given the opportunity to present their comments and concerns on the Chair’s text at the beginning of an official plenary session. Consistent with the practice followed at CSD 13 (2005 to 2011) designated representatives from each of the nine major groups should be allowed a three minute statement each in plenary to comment on the Chair’s text at the very beginning of the plenary session, before the negotiations have started. As was the case at CSD, the comments would be considered to be statements by the major groups, and not arguments in a governmental negotiation. These statements should also be annexed to the report from each of the HLPF sessions.

6. *Producing and presenting written documents*

- a) Also in line with paragraphs 15, each of the nine major groups should be tasked with researching, writing and developing a background document on the HLPF agenda themes. Using the CSD standard, these documents could be 8500 words¹⁰. These documents must be finished and handed in to the HLPF secretariat by a definite date well in time before the beginning of the HLPF sessions.
- b) The HLPF secretariat should then make sure these documents would be translated into all official UN languages, and sent to the UN Member States as official UN documents and as an integrated element of the background papers sent all delegates for the upcoming HLPF sessions as was the practice in CSD
- c) Continuing to use CSD as a precedent, any of the accredited NGOs or members of major groups to HLPF should be allowed to produce their own background or position paper on the agenda themes, and provided they would reach the HLPF secretariat before a set deadline, the secretariat should provide these papers with a UN cover note, and distribute them to all UN Member States. These documents would however remain unedited and available only in the language in which they were originally written.
- d) If as with CSD , a Secretary General’s report were to be written as a major official background document for the HLPF sessions, all accredited and interested NGOs should be invited to contribute to this report.

7. *Organizing side events, round tables, etc. in cooperation with Member States and the HLPF Secretariat;*

The HLPF process will possibly allow for the organization of a multitude of parallel events to be organised. The purpose of these activities will be to heighten the factual

¹⁰ ca 14 to 15 pages, double spaced, 12 point Times Roman font

input into the HLPF deliberations. In line with Paragraph 15, major groups of stakeholders should all be invited to participate as actively as possible, to

- a) Organise their own side events, utilizing the principle of self organisation;
- b) Participate in side events organized by Member States, UN system and all other participants in the HLPF;
- c) Participate in a daily NGO administrated major groups morning information meeting¹¹;
- d) Participate in the special policy sessions for each major group (organised daily according to the needs of the individual major group);
- e) The HLPF secretariat should organise regular meetings between the President of the General Assembly/President of ECOSOC and the nine Organising Partners of the Major Groups.
- f) The President of the General Assembly/President of ECOSOC, if invited by the Major Groups should come and address the morning information meeting;
- g) Regional groups of Member States and groups of Member States should also be encouraged to invite key representatives from the Major Groups and organise meetings with them (such as the EU, the US and JUSCANZ/ JUSSCANNZ, and G-77 and China)¹².
- h) To upgrade the importance and relevance of the side events, the HLPF secretariat should regulate the number of side events with a keen eye to relevance and content, and give each of the three actors at HLPF -- delegates, representatives of the UN and major groups -- a certain quantity of side events each to organise, and the outcome of the side events should be annexed to the HLPF report. The individual organiser should be responsible for a succinct report from the side event, and a template should be developed by the HLPF secretariat to systematise the reporting from the side events.
- i) Representatives of major groups with expert competence on the issues under discussion should be selected by the organizational constituents of that major group present at the HLPF meeting to participate in organised, high level or Ministerial roundtables. Roundtables could also be organised and conducted as special events, as is done at UNEP, under strict procedural rules where the Chatham House Rule¹³ is invoked. With no audience present, all participants, Ministers, ambassadors, regular delegates and major group representatives would be free to speak their mind on the designated theme. The reports from these roundtables should be written only to reflect the highlights of the discussion and fed into the larger negotiating processes being conducted in plenaries.

¹¹ These meetings, organised every morning during CSD including the IPM, were open to all major group representatives

¹² USCANZ The USA, Canada, Australia and New Zealand; JUSSCANNZ Japan, the USA, Switzerland, Canada, Australia, Norway and New Zealand, Israel, Island, Russian Federation, Liechtenstein as well.

¹³ The Chatham House Rule reads as follows:

“When a meeting, or part thereof, is held under the Chatham House Rule, (there is only one!) participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.” The world-famous Chatham House Rule may be invoked at meetings to encourage openness and the sharing of information. It is now used throughout the world as an aid to free discussion and to guarantee the anonymity of the speakers.

- j) A system should be devised so that it would no longer be mandatory that a side event organised by a major group would need an official country sponsor to organise such an event.

8. *Participation in regional meetings,*

In line with Paragraph 15 and Paragraph 13, Regional UN Commissions and regional meetings should always allow participation of regional major groups based in or active in the relevant region to participate by employing modalities that are as accessible or more inclusive than those used at the UN Headquarters in New York, and outlined here.

9. *Funding should be made available to an increasing number of major groups' representatives.*

As funding is no longer explicitly concentrated to funding representatives from developing nations, according to Paragraph 24, representatives selected to receive complete or partial financial support,

- a) should be selected with a just consideration for geographical and gender representation;
- b) and the selection process should be the responsibility of the Organising Partners of the major groups in collaboration with the major groups coordinator at the HLPF secretariat;

10. *Self-organizing processes of participation*

All selection of representatives of major groups to, inter alia, present statements, make interventions or participate in panels should be the responsibility of the Organising Partners of the major groups in collaboration with the major groups coordinator at the HLPF secretariat;

11. *Science based approaches and the Global Report on Sustainable Development*

In line with paragraph 20, and recognising the fact that many well established members of the major groups constituency as well as the NGO community, have large research and science units and capacities and also conduct research on the three dimensions of sustainable development, the major groups should be well integrated into the science-based elements of the HLPF and invited to contribute to the “ ... enhancing evidence-based decision-making at all levels and contributing to the strengthening of ongoing capacity-building for data collection and analysis in developing countries ... ”¹⁴

When the HLPF is going to consider, in 2014, the scope and methodology of a global sustainable development report, based on a proposal of the Secretary-General, it would be imperative that representatives from all major groups are involved in the development of the methodology and that they are always invited to contribute to the annual report in the future;

¹⁴ Quoted from paragraph 20 in the HLPF resolution 67/290

12. Reviews

In line with Paragraph 8 major groups are given an important role in contributing to reviews at all levels. As with the science approach, all major groups have among their global constituencies representatives well versed in the art of reviews at local, national, regional and global level. As such reviews could be conducted in a myriad of ways – it is important that the HLPF secretariat, with relevant bodies of the UN with expertise in monitoring and reviews, develop templates for reviews. Major groups could contribute to official reviews, -- as they often did during the CSD period -- but can also conduct their own reviews, as so-called “shadow reporting”. These reviews could be part of the written documentation that major groups are asked to produce for the HLPF.

13. Agenda setting

In line with Paragraphs 18 and 22 the major groups should be invited to propose items and comment on the upcoming agenda for the HLPF sessions. Major groups and NGOs with their networks and their constituencies, often reaching elements of a national population that may be difficult for representatives of governments to reach, will be well placed to detect and identify emerging issues. As such these and similar issues should be brought to the attention of the HLPF member states and the convening bodies, and form part of the agenda of the HLPF sessions.

14. No regression

The Principle of Non-Regression is an international law principle utilized by Human Rights specialists requiring that norms which have already been adopted by States must not be revised, if this implies retreating from advanced positions on the protection of collective and individual rights.

In line with paragraph 84 of the Rio outcome document, “... building on the strengths, experiences, resources and inclusive participation modalities of the Commission on Sustainable Development ...” which incorporates the principle that best practices may provide the floor for new development, the Rio+20 outcome document incorporates the principle of no regression. This principle should, *mutatis mutandi*, henceforth be used when developing modalities throughout the United Nations for NGOs, major groups and civil society organisations.

Proposals to strengthen the organisational structure of the High Level Political Forum

The HLPF is defined by UNGA resolution A/67/290 as the preeminent unit within the United Nations to detect, develop, coordinate and enhance sustainable development policies, conduct reviews, base its principal decisions on scientific evidence and write the world’s Global Sustainable Development Report. The HLPF is also expected to be the institutional home of the Sustainable Development Goals, the SDGs. Their successes depend on the HLPF.

HLPF is at present lacking in organizational strength and consistency. As a hybrid it exists in the undefined landscape between the UNGA and ECOSOC, two of the most important and

politically powerful Charter Body institutions. As a hybrid, the HLPF's legal framework is being subjected to selective interpretation.

An institution entrusted with creating a sustainable future cannot afford to have a weak governance structure. It needs to be provided with a bureau and it needs a strong secretariat. Unlike its predecessor the CSD, the HLPF currently does not have a bureau and the GA resolution makes only a cursory reference to secretarial support.

Member States can rectify these weaknesses and still be consistent with the present UNGA resolution 67/290 on the HLPF. Paragraph 29 of this resolution states that the UNGA “*Decides to review the format and the organizational aspects of the forum at its seventy-third session, unless otherwise decided.*”

Referencing paragraph 29, Member States can immediately establish a bureau or at a minimum an advisory board to strengthen the governance structure of HLPF. Likewise they can bolster the position of its secretariat empowering HLPF to gain an autonomous position within the UN hierarchy.

Box 1: Statement to the Co-Chairs of the OWG process, morning hearing on Friday February 7, 2014 on behalf of the NGO Major Group, by Jan-Gustav Strandenaes

Co-chairs

I have been asked to address the governance structure of the HLPF.

No resolution adopted by the UN GA has ever encompassed so much for sustainable development as the one establishing the High Level Political Forum. No resolution adopted by the UNGA has ever accorded non-governmental organizations and major groups so wide reaching privileges.

Governments and its people must own policy and implementation. The SDGs and the HLPF offer this possibility.

NGOs have at times implemented up to 70 % of various UN programmes

As the NGO community was crucial in carrying out the MDGs, so it will be crucial in carrying out the SDGs on all issues and at all levels.

UNGA resolution 67/1 of 2012 on the Rule of Law stresses the role of non-governmental organizations and the need for creating a just, sustainable future based on human rights and good governance. The HLPF embodies these principles.

To fulfill the promises embedded in the Rio outcome document, we need a competent, autonomous institution. The HLPF is not yet such an institution. We therefore need to strengthen it.

The ingenuity of the HLPF is that it was created as a hybrid. But that may not address every aspect of its challenges.

HLPF is lacking in organizational strength and consistency. As a hybrid it exists in the undefined landscape between the UNGA and ECOSOC, two of the most important Charter Body institutions. As a hybrid, the HLPF's legal framework is being subjected to selective interpretation.

Some want to integrate the HLPF into ECOSOC. With its broad mandate ECOSOC's purview extends to over 70 per cent of the human and financial resources of the entire UN system. It covers a multitude of issues, and sustainable development is only one among many.

Due to the rigidity of ECOSOC's rules of procedure, the NGO and major groups community do not have access to ECOSOC meetings. Should HLPF be integrated into ECOSOC, we will not be able to participate and the HLPF will not be able to perform the roles envisaged by the GA's resolution.

An institution entrusted with creating a sustainable future cannot afford to have a weak governance structure. It needs to be provided with a bureau and it needs a strong secretariat. Unlike its predecessor the CSD, the HLPF currently does not have a bureau and the GA resolution makes only a cursory reference to secretarial support.

The HLPF needs an autonomous position within the UN hierarchy.

Member States can rectify the weaknesses and still be consistent with the present resolution. Paragraph 29 of the HLPF resolution states that the UNGA: (I quote) "*Decides* to review the format and the organizational aspects of the forum at its seventy-third session, unless otherwise decided."

Referencing paragraph 29, Member States can immediately establish a bureau or at a minimum an advisory board to strengthen the governance structure of HLPF. Likewise they can strengthen the secretariat.

The world needs an institution solely dedicated to sustainable development and the SDGs. That institution is within our grasp if we have the political will to create it.

Thank you for your attention

The High Level Political Forum, major groups¹⁵ and modalities

1.0 – Introduction – The formal setting

1.1 - Participation of Non-Governmental Organisations, and major groups in the UN

The privileges of non-governmental organisations, (NGOs), to participate in intergovernmental processes under the auspices of the United Nations General Assembly (UNGA) are enshrined in the Charter of the United Nations, Article 71, which states: “The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.”¹⁶

The High Level Political Forum, HLPF, is formally positioned under the United Nations General Assembly (UNGA) and the UN Economic and Social Council, ECOSOC¹⁷. Accordingly, the formal structure surrounding these institutions will have to play a role in delineating modalities pertaining to the various actors with an interest in the HLPF and given a formal right to work within the HLPF. It is also fair to assert that the HLPF grants more extensive rights and privileges to major groups, NGOs and civil society than any other body under the auspices of UNGA and ECOSOC has ever done. Exercising these rights while respecting the intergovernmental nature of the HLPF are among the key issues addressed in this paper (see Box 2 on p.14 on privileges and rights to participate).

The idea of giving a significant position to NGOs and representatives of civil society within the United Nations, came to permeate the institutional setup of this organisation’s entire system from its very beginning.¹⁸ History Professor Paul Kennedy of Yale University writes: “... the Preamble (of the UN Charter) made way for nonstate actors to present their views, for why should not NGOs, the media, minorities and resistance groups claiming to speak for “the Peoples” have a voice as well as their otherwise exclusive governments?”¹⁹

Already in the Preamble of the Charter of the United Nations, the concept of civil society is embraced by the phrase: “We the peoples of the United Nations ...” The understanding that

¹⁵ The concept ‘Major Groups’ is further developed and explained in Chapter 2. During this paper, major groups is not capitalized unless a direct quote is used. For instance, the HLPF resolution including most UN resolutions use lower case letters. UN DESA has decided that the concept in its entirety should preferably be called ‘Major Groups of stakeholders’: For further explanation of the important concepts, see ANNEX I

¹⁶ Article 71, Chapter 10 of the Charter of the United Nations

¹⁷ Paragraphs 3, 6 and 7 of the UNGA resolution A/67/290 “Format and organizational aspects of the high-level political forum on sustainable development”

¹⁸ Understanding the difference between NGOs and civil society is imperative to many of the arguments in this paper. They are further discussed throughout the paper, and given a deeper analysis in Chapter 2. The paper uses interchangeably NGOs, civil society, the NGO/civil society nexus etc. For a more detailed discussion and explanation of this important issue, please see ANNEX I.

¹⁹ Paul Kennedy: “The Parliament of Man – the United Nations and the Quest for World Government”, Allen Lane/Penguin Books, London 2006, on page 207

‘we the peoples’ mandates their governments is given further substance when the Preamble in its last paragraph states: “(We) have resolved to combine our efforts to accomplish these aims, (and)

accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.”²⁰ It states that ‘we, the peoples, have agreed and consequently our governments have agreed to the Charter and established the organisation, i.e. the UN.

The Preamble of the Charter unequivocally mandates all actors identified through the Charter to carry out the works of the UN. The Charter also makes allowances for future development of the international machinery and with remarkable foresight includes future, international actors in this machinery by stating: “... and for these ends ... to employ international machinery for the promotion of the economic and social advancement of all peoples ...”²¹

And finally, the Preamble hones in on the focus of all development which is humanity in general, or in the words of the Charter, “succeeding generations”, and more specifically the individual human being while emphasising the ultimate purpose of the UN, which is to work: “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom ...”²²

The 2012 Rio Outcome Document named “The Future We Want”²³ is written very much in the spirit of the Charter of the UN. Already in the first paragraph of the Rio Outcome Document, under the heading called “Our Common Vision”, civil society’s position and the tasks already outlined in the UN Charter’s Preamble are reaffirmed: “We, the Heads of State and Government and high-level representatives, having met at Rio de Janeiro, Brazil, from 20 to 22 June 2012, with the full participation of civil society, renew our commitment to sustainable development and to ensuring the promotion of an economically, socially and environmentally sustainable future for our planet and for present and future generations.”²⁴

Fourteen processes²⁵ were identified in the Rio+20 Outcome Document, and the UN General Assembly has been charged with operationalising these processes. Civil society and major groups²⁶ were given strong positions and a responsible mandate throughout the Rio+20 Outcome Document, as well as in the fourteen processes and an entire chapter is devoted to

²⁰ From the preambular text of the Charter of the United Nations

²¹ *ibid*

²² *ibid*

²³ A/RES/66/288, “The future we want”

²⁴ *Ibid*, paragraph 1

²⁵ See ANNEX II

²⁶ As was pointed out in footnote 19, Major Groups, stakeholders, civil society and NGOs are often used synonymously in writing. This will be seen in various quotes during this paper. As there are significant differences between these concepts, this paper will strive to keep them conceptually as correct as possible (see also ANNEX I).

their tasks.²⁷ Various rights, obligations and tasks with relevance to major groups and civil society are interspersed throughout the Rio+20 Outcome Document. All of this including the tasks of developing and coordinating sustainable development policies throughout the United Nations resulted in the UN GA resolution calling for the establishment of the High Level Political Forum, the HLPF²⁸.

Box 2: On participation of non-governmental organisations in UN meetings, legal and policy concerns.

Members of non-governmental organisations, NGOs, accredited through ECOSOC take it for granted that they have a right to participate in UN meetings and sessions. Most will express an implicit understanding for not being allowed into the Security Council. But many think they have a right to be part of UN General Assembly proceedings – after all, they may surmise, this is called the parliament of humanity. And when it comes to other bodies and forums of the UN, participation is almost considered a natural right. The truth of the matter is far more complicated. NGOs have no participatory rights at the UN General Assembly, and their privileges to be present in other UN institutions are heavily regulated. NGOs, major groups and representatives of civil society organisations need to be aware of issues related to their participation throughout the United Nations, which vary widely across agencies, programmes and bodies.

There is no legal right for NGOs to participate in the UN. Article 71 of the Charter, which recognises NGOs as “legal players” at the UN does not use the word participate. It states that: “The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.” The key word is ‘suitable arrangements for consultation’ not the right to participation. In reality, this legal fact authorises ECOSOC the right to remove access privileges to particular NGOs or their representatives when warranted, as it has done on occasion, something it cannot do with member states.

ECOSOC is mandated by the Charter of the UN to handle NGO matters. In 1996, ECOSOC drew up a number of basic principles and criteria for NGOs to receive accreditation to the UN. This was ECOSOC’s response to its mandate to interpret rules of procedure for NGOs at the UN, and ECOSOC resolution 1996/31 was an upgrade of earlier versions dealing with the same issue. This ECOSOC document establishes rules and regulations for how accredited NGOs shall deal with speaking at UN meetings as well as presenting written documents. It does also deal with how “to get into” the UN. The usage of words is cautious and precise. Phrases with content like: “Organizations in general consultative status and special consultative status may designate authorized representatives to sit as observers at public

²⁷ Paragraphs 42 through 55 in the Future We Want.

²⁸ A/67/290 “Format and organizational aspects of the high-level political forum on sustainable development”

meetings of the Council and its subsidiary bodies” tend to dominate this document. However in paragraph 29, we find the following: “These attendance arrangements may be supplemented to include other modalities of participation.” They state ‘modalities of participation, but never ‘the right to participate.’

Paragraph 50 has somewhat stronger language: “In recognition of the intergovernmental nature of the (UN) conference and its preparatory process, active participation of non-governmental organizations therein, while welcome, does not entail a negotiating role.” For the first time in this document, the words ‘active participation’ are used. But note also – NGOs do not have the right to negotiate in conferences or in meetings.

Finally, in paragraph 53, we see the strongest reference to NGOs and participation: “ ... Recognizing the importance of the participation of non-governmental organizations that attend a conference in the follow-up process,...

Paragraph 15 of the HLPF resolution keeps within this usage of words: “*Decides*, in this regard, that, while retaining the intergovernmental character of the forum, the representatives of the major groups and other relevant stakeholders will be allowed - To attend all official meetings of the forum;” The language is stronger than the 1996 ECOSOC interpretation of Article 71, but it does not recognise a ‘right to participate’.

Arguments can probably be made based on almost 60 years of active NGO participation at the UN that the right to participate for NGOs is now an integrated element of established rules of procedure under the auspices of ECOSOC and UNGA. The legality of such an argument can however be contested.

This paper has on the other hand, assumed that NGOs being accredited to the UN through ECOSOC has a right to participate, and this interpretation is used consistently throughout the document. That right also expresses an understanding of governance reflecting today’s political reality.

1.2 - Understanding where the NGOs and other major groups belong in the UN system

The Charter and the organisational structure of the UN distinguish between the bodies functioning under the UNGA, the Charter Bodies and the Specialised Agencies. The latter are given positions somewhat independently of the UNGA in as much as they all are working with separate mandates taking their formal positions from their own general assemblies. As such, they have adopted their own system to recognise NGOs and members of civil society, developed separate rules of procedure pertaining to access and conduct meetings with their own modalities and rules of procedure for non state actors. The Specialised Agencies may accept decisions taken by the UNGA and UN Summits, and often apply them more as guidelines than decisions to abide by. Hence, what is good for WHO or the FAO may not

apply directly to the UN GA and vice versa. And rules of procedure often differ in practice between the Specialised Agencies with no obligation to streamline these modalities or make them universally applicable to the UN family²⁹. To appreciate, understand and utilize the functionalities that the entire UN system offers its various recognized actors, it is imperative that the formal differences that exist within the UN system be explored in some detail.

The focus of this document is twofold. Within the confines of the HLPF resolution while respecting the intergovernmental nature of the United Nations and the HLPF and recognizing the formalities of the United Nations, the paper will seek to:

- identify a number of modalities for major groups and other stakeholders that will contribute to making the HLPF a functional multistakeholder body within the UN-system;
- allow these actors maximum operational space

All the identified and proposed modalities for major groups at HLPF are summarised in the Executive Summary of this document.

2.0 – A brief history of NGOs and major groups at the UN

2.1 - Introduction

Many historians refer the invention of the concept ‘Non Governmental Organisations’, NGOs, to the UN and its system of accreditation at the UN founding conference in San Francisco in 1945. As several interest groups outside of government delegations were invited to the conference at the behest of the US Government, there was a definite need to differentiate between the various players at the conference, and the term ‘a non government organisation’ was coined. When the term later found its way into the UN Charter in Article 71, it became formalised and received legal recognition through the UN Charter. And as events have shown, it soon became an accepted household concept used inside and outside of the United Nations family. Most importantly, the Charter and Article 71 with the directions given ECOSOC to handle this issues, was the first legal recognition giving NGOs a formal and respected role in intergovernmental processes. As the world evolved towards the millennium and beyond, this would later greatly contribute to and enrich political processes with far reaching and significant consequences. The sheer numbers of NGOs in this world combined with their expertise and implementation capacity in the field has made it impossible for governments to ignore them.

Since 1945, the term ‘NGO’ seems to have become synonymous with ‘civil society’. There may be different reasons for this, and one is perhaps because the Preamble to the UN Charter employs the term “we, the peoples” which are words that are often closely associated with ‘civil society’. And as the UN Charter was the first legal document to recognise NGOs, the association to “we the peoples and civil society” may have been made.

²⁹ The concepts ‘the UN family’ or ‘UN system’ are used in this paper to include all organizations, units and their activities that belongs to the formal UN structure whether this be under the UNGA, the different Charter Bodies or Specialised Agencies

This is however an assumption based on a faulty and imprecise understanding of the nature and work of NGOs and civil society. It is correct to state that: All civil society organisations are non-governmental organisations. However, all non-governmental organisations are not civil society organisations. An imprecise utilisation of these concepts is probably one of the causes behind the opposition voiced by many NGO/civil society organisations against the major groups concept and has contributed to a confusion of terms³⁰. This chapter will attempt to shed some light on this strife, which has many sides to it: theoretical, conceptual, political and ideological. Many have tried to give the concepts a definite interpretation, but so far it has eluded all efforts to be given a final and succinct definition with accepted usability for our fast growing political world (see also ANNEX I).

2.2 - UN Formality, civil society, NGOs and major groups

Formally speaking the bodies of the UN functioning under the General Assembly or the Charter bodies of the UN³¹, should recognize only three actors: The member states and their delegations, intergovernmental organizations and non-governmental organizations, NGOs. Through Article 71 of the Charter, ECOSOC has been mandated to work with and deal with the NGOs. This is reflected in the procedural arrangements of ECOSOC (see below, chapters 7, 8 and 9). Strictly speaking, any non-state organization that is not recognised as an NGO should not be given access to any UN body under the UNGA or any of the Charter Bodies.

Some forty NGOs were present at the founding conference in San Francisco in 1945, actively lobbying the delegates there. Among results directly attributed to NGO input during this conference is the establishment of the UN Human Rights Commission and the inclusion of Article 71 in the Charter. When the UN was formally established and started its work in 1945, a total of four NGOs were given accreditation. After 25 years, by 1970 when the word ‘international’ had started to attain a deeper understanding and the UN membership stood at 140, some 380 NGOs had been accredited to the UN by ECOSOC. It would take another 20 years, by the time of the Rio conference in 1992, for his figure to reach 900. But in less than 10 years after the first Rio conference, by the turn of the new century, this figure had more than doubled and reached almost 2000.³² Today, at the end of 2013, almost 4000 NGOs have been given a form of ECOSOC accreditation.³³

Because of the staggering numbers of NGOs attending the various large-scale UN conferences during the 1990s, the UN invented what was termed “a fast track accreditation system” allowing for large number of NGOs to be accredited on a conference-by-conference

³⁰ It is worth noting that Adams and Pingeot do not make this distinction in their paper on “Strengthening Public Participation at the United Nations for Sustainable Development: Debate, dialogue, Dissent, Deliberation”, a study for UNDESA, June 2013, thus adding to the confusion of terms in an atmosphere now charged more with ideological statements than sound NGO-civil society debate. <http://sustainabledevelopment.un.org/content/documents/1926desareport.pdf>

³¹ The Charter bodies are: The Security Council, The Economic and Social Council, ECOSOC, The Trusteeship Council, The International Court at the Hague, the Secretariat of the Secretary General of the United Nations and the UN General Assembly.

³² Prof. Peter Willets in “Whose world is it anyway?”, Foster & Anand, UNA, Ottawa, Canada, 1999, page 254

³³ Basic facts about ECOSOC Status <http://csonet.org/index.php?menu=17>

basis. During the 1990s, the UN thus gave accreditation and political credibility to tens of thousands of NGOs all over the world. With the new millennium, the world of global politics had definitely come to accept another political actor that demanded more than lip service recognition: NGOs had become a political force in the intergovernmental sphere and a practical operator in the field.³⁴

The NGO/civil society community has during the past decades become an increasingly accepted player with influence on the local, national regional and international scene. As more and more people in the West have left organised political parties, and an increasing number of people in other parts of the world are on the lookout for organisational instruments that can represent and channel their views, various organisational structures within the NGO/civil society community seems ready to absorb these people and spearhead their views. India is noted as the country in the world with most registered NGOs, in total numbers and by per capita – more than 3.3 million NGOs are registered there.

There were an estimated 400 international NGOs (those operating in more than three countries) in 1920 and around 700 in 1939³⁵. It is quite evident however, that the NGO/civil society world has enjoyed unprecedented growth since the last world war ended in 1945; it was propelled into political importance through the cold war period, and found an outlet for its engagement and views through the advent and development of multilateral institutions. It became a significant operator in the relief and development world, often viewed as an impartial go-between, at times spearheading controversial and sensitive issues too difficult for governments to touch. The many Nobel Peace Prizes awarded various NGOs³⁶ are testament to this. And NGOs/civil society have been given added political significance by events in the world since the beginning of the 21st Century, not the least helped by social media. By now, the NGO-civil society nexus is no longer ‘just a Western phenomenon’. In the 21st century it is a global, political force found in every country in the world.

2.3 The birth of major groups – an historical background

A strict definition of NGOs as the ‘only’ component of civil society would for many reasons, exclude a number of players that the UN and the larger part of the global intergovernmental community both need and want to work with today. Municipalities and regions had during the last two decades of the 20th century begun to develop an interest in global intergovernmental politics. What was decided globally had to be implemented locally. Mega-cities and large urban municipalities had during the 1980s started to develop their own sustainable

³⁴ Michael Edwards and David Hulme parallels this development in “The Earthscan Reader on NGO Management”, Edwards & Fowler editors, Earthscan Publication Ltd., London, UK 2003, page 187-198.

³⁵ Quoted from Bill Seary, article in “The early History: From the Congress of Vienna to the San Francisco Conference in the Conscience of the World”: The influence of Non-Governmental Organisations in the UN System, ed. Peter Willetts (London:Hurst, 1996) in “Ahead of the Curve. UN Ideas and Global Challenges, Emmerij, Jolly&Weiss, Indiana University Press, 2001, pp 190-191

³⁶ Médecin Sans Frontier, 1999; International Campaign to Ban Landmines, 1997; The Pugwash Conferences on Sciences and World Affairs, 1995; International Physicians for the Prevention of Nuclear War, 1985; Amnesty International, 1977; The League of Red cross Societies, 1963 (and 1944); Friends Service Council, Quakers, 1947.

development programmes, and consequently their interest in what was happening on the global scene in this context had grown almost exponentially. The many city initiatives on energy, water and not the least climate issues are proof of this today. And with this, the political focus of many mayors soon narrowed in on the UN as an intergovernmental lobby arena. They wanted to be part of this. But were they non-governmental organisations?

There were also other interest groups expressing their interest in the UN such as representatives from science, research, indigenous peoples, youth, women. Some of these groups increased their growing political status and influence through the many thematic conferences and summits held through the 1990s, almost all organised by the UN.

During the UN Conference on Environment and Development, UNCED³⁷ in 1992 and from the ensuing UN summit conferences during the 1990s another expression or 'term' entered the political mainstream vocabulary: stakeholders. But rather than clearing up the discussion, confusion and disagreement deepened with this added term. As many have been quick to point out, in society - who is not a 'stakeholder'? Even governments are. Thus efforts -- mostly half-heartedly -- have often been made to refine the content of this word, by adding 'relevant' -- as is done several times throughout the Rio 2012 Outcome Document and the HLPF resolution, allowing the context to interpret what and who is relevant.

Recognising the growing challenge facing the world of intergovernmental politics which manifested itself through the forty thousand or so NGO/civil society participants in Rio in 1992, there was a need to expand the usefulness of the NGO/civil society concept and allay the growing confusion attached to this politically elusive concept. A new approach was needed. UNCED was a UN conference organised under the auspices of the UN General Assembly. Consequently the formal challenge attached to a new NGO concept was to make sure it was aligned to the NGO reality expressed by Article 71 in the Charter and further elaborated by ECOSOC. Whatever shape or construct the non-state stakeholders would take, they had to fit into the shape of this NGO construction. The major group concept was born. The invention of the nine major groups can be interpreted as a creative effort by members of the UN system including its member states with active contributions from NGOs and civil society itself, to bridge formal, conceptual and political gaps in the ongoing debate on how to understand the emerging and growing world of civil society and non-state actors.

2.4 - The major groups -a formally accepted way to access the UN

First tested as a concept and used as a designation during the March 1992 preparatory meeting for the Rio 1992 conference, the nine major groups received their formal recognition in the outcome document from UNCED - Agenda 21. The nine are: Women, Children and Youth, Farmers, Indigenous Peoples, NGOs, Workers and Trade Unions, Local Authorities, Science and Technological Community, Business and Industry.³⁸

³⁷ UNCED – the UN Conference on Environment and Development, the first 'Rio conference' held in 1992

³⁸ Chapter 23 in Agenda 21 recognised by the UN GA resolution A/RES/47/190, in December 1992

But a quick look at the construct of the nine major group system will reveal a number of apparent paradoxes: Of the nine major groups, five obviously belong to the so-called NGO group (Women, Youth, Farmers, Indigenous Peoples, NGOs), and are by many seen as ‘the true NGOs’ and interpreted as being synonymous with civil society. In addition, the NGO major group itself seems to involve all the others thus making this group almost semantically redundant. There are also other issues. The sheer size and political position of the Trade Unions will set them apart from the traditional NGO/civil society community, but as an institution they are clearly organised as a non-governmental body. One of the nine also represents local authorities and should per definition not be seen as an NGO. Local Authorities clearly represent elected local governments, and as many have pointed out, many mayors representing huge urban conglomerations have a larger constituency behind them than do several state leaders. Science and Technology may be NGO-related but as they most often represent universities, or pure research institutions, they cannot be qualified as NGOs. Many are also associated with the private sector and these are not organised as NGOs either. And questions have been raised about the Business and Industry major group asking if they are not synonymous with big companies and as such the market? And the market is definitely not civil society.

The major group system became the organisational and procedural sword to sever this Gordian Knot. The nine defined major groups were, and are, organised through bona fide NGO constructs thus answering to the basic quality demands of Article 71 of the Charter including the NGO definitions held by ECOSOC. To understand the elegance of the major group solution, it is important to divest the NGO concept of its synonymous interpretation as and with civil society.

NGOs cannot be seen or understood to be only synonymous with civil society. The abbreviation NGO stands for a non-governmental organisation. An increasing number of reports and studies now make a new distinction by referring to the NGO group as non-state actors. This may be an effort to allow the NGO concept still to be -- in many contexts -- synonymous with civil society. But this is not what it was intended to be in 1945, and which it in reality still is – non-governmental organisations, i.e. organisations outside of the realm of governments. All nine major groups are organised as NGOs, and interrelate with the UN GA system through these NGO constructs.

A number of people have sought to help the definition along by also pointing out that the market is not the same as business and industry, and this major group is represented through their own interest groups such as, the World Business Council on Sustainable Development, the WBCSD, or the International Chamber of Commerce, the ICC -- both non-governmental organisations in their own rights. Local authorities and science and technology also fall in such a category. UN Habitat is the only UN body which through its mandate allows representation in their general assembly by representatives from municipalities. But under the major group system, local authorities were represented at the Commission on Sustainable Development (CSD) and in the Rio 20 process through either International Council for Local Environmental Initiatives (ICLEI) or United Cities and Local Governments (UCLG) and the

Network of Regional Governments for Sustainable Development, (nrg4SD), all non-governmental organisations representing local government interests. The scientific and technological community has primarily been organised through International Council for Science, (ICSU) and the World Federation of Engineers, (WEFO) and the interests of workers and trade unions through the International Trade Union Confederation, ITUC, also a non-governmental organisational structures. (See also ANNEX I for further elaboration of civil society, major groups, non-state actors etc.)

As has been stated time and again, the major group system was not set up to be representative of certain interest groups or to be gatekeepers to the exclusion of others, but to function as a vehicle through which all representatives of non-governmental interest groups could access the United Nations family serving under the UNGA/ECOSOC system while respecting the Articles and spirit of the Charter and thus the intergovernmental nature of these UN bodies.

3.0 – The high level political forum (HLPF)

3.1 – The HLPF resolution and content

On July 9, 2013, during its 91st Plenary Meeting, the UNGA formally adopted by consensus the format and the organizational aspects of the high level political forum (HLPF)³⁹. The resolution also recommended to the Economic and Social Council to abolish the Commission on Sustainable Development (CSD)⁴⁰, effective from the conclusion of its 20th and last session in September 2013, to be held prior to the first meeting of the forum.

With ten preambular and thirty operative paragraphs, the resolution on HLPF stakes out the contours and direction of the global sustainable development institutional architecture and its ensuing policies, for the next twenty years. Unless it should be subjected to serious revisions, this construct will heavily influence sustainable development policies until 2022 until perhaps at Rio plus 40 (or Stockholm plus 60, i.e.- 2032). It is also thought to be the most important intergovernmental mechanism in the follow-up to the Rio+20 Conference and the post-2015 development agenda as it is supposed to become the home of the Sustainable Development Goals, the SDGs.

The HLPF document reflects in many ways a compilation of experience, knowledge and process understanding of more than twenty years of sustainable development deliberations at the global level. Accordingly, virtually everything one needs to be concerned about is – at least potentially – in place. The HLPF has also been given a high level political standing by its Heads of State and Governments involvement every four years.

The HLPF is given a heavy, but influential agenda through its resolution. It is supposed to:

- provide leadership, guidance and recommendations for sustainable development,

³⁹ in resolution A 67/290

⁴⁰ CSD, a functional commission of the Economic and Social Council, mandated with following up work on Agenda 21 and the Johannesburg Plan of Implementation, both dealing with global sustainable development. CSD was the high level body for sustainable development in the United Nations system.

- identify emerging issues, reviewing progress in the implementation of related commitments;
- continually enhance integration of the three dimensions of sustainable development – economic, social and environmental.

In addition, every four years the HLPF will be held under the auspices of the GA at the level of Heads of State and Governments for two days, “resulting in a concise negotiated political declaration to be submitted to the Assembly for its consideration.”⁴¹ A negotiated resolution is also to be adopted by the ministerial meetings of the forum which will be held every year under the auspices of ECOSOC.

A close reading of the HLPF resolution reveals a formidable agenda. If we summarise all identified agenda points in the document, we arrive at 25 – or 29 agenda points⁴², if we allow each of the five UN regions to come in with only one agenda item. Added to all this, will be the responsibility to coordinate and facilitate the SDGs, however many they will be. And according to the HLPF resolution, major groups and other relevant stakeholders are asked to participate in all these agenda issues. The operative mandate given major groups in this context is expressed through a number of participatory rights, with reference to what was developed through the practice of the CSD. In accordance with paragraph 84 of the Rio+20 Outcome Document, the HLPF should incorporate all these rights:

“We decide to establish a universal intergovernmental high-level political forum, building on the strengths, experiences, resources and inclusive participation modalities of the Commission on Sustainable Development, and subsequently replacing the Commission. The high-level political forum shall follow up on the implementation of sustainable development and should avoid overlap with existing structures, bodies and entities in a cost-effective manner.”⁴³

3.2 - Rights accorded major groups and relevant stakeholders in HLPF

Major groups and relevant stakeholders are referred to in 8 paragraphs in the HLPF resolution. These paragraphs are: 8c; 10; 13; 14; 15; 16; 22 and 24.⁴⁴ The following gives a summary overview of the content in these paragraphs in relationship to the major groups of stakeholders. It should be noted that the majority of the participatory rights granted major groups with reference to their HLPF paragraphs have been in operation in various organisational contexts in the UN system since 1992.

Paragraph 8 states that “the forum, under the auspices of ECOSOC will conduct regular reviews, (specifies content) that:

- (a) Will be voluntary, will include developed and developing countries, relevant United Nations entities;
- (b) Will be State-led, involving ministerial and other relevant high-level participants;

⁴¹ Quote from the HLPF resolution, paragraph 6d.

⁴² See ANNEX VII

⁴³ A/RES/66/288, “The future we want”

⁴⁴ For the full text of the HLPF resolution A/67/290, see http://www.un.org/depts/dhl/resguide/r67_en.shtml

- (c) Will provide a platform for partnerships, including through the participation of major groups and other relevant stakeholders;
- (d) Will replace the national voluntary presentations held in the context of the annual ministerial-level substantive reviews of the Economic and Social Council, building upon the relevant provisions of General Assembly resolution 61/16 as well as experiences and lessons learned in this context;

It must be noted however, that the NGO community has been invited time and again throughout the history of the UN to participate in review sessions, and tracing the development of modalities from CSD, major groups were often invited to intervene in the official plenary sessions on the results of reviews according to a particular set of modalities.

Paragraph 10 – states: “*Underlines* that the arrangement established by the Economic and Social Council for the Commission on Sustainable Development in Council decision 1995/201 of 8 February 1995 will apply to the meetings of the forum held under the auspices of the Council, and that the arrangements established by the General Assembly in the annex to its resolution 65/276 of 3 May 2011 will apply to the meetings of the forum held under the auspices of the Assembly;”

1995/201 is a Reference Document on the participation of civil society in United Nations conferences and special sessions of the General Assembly during the 1990s. The UN official search engine gives the researcher “Version 19 November 2002 Prepared by the Office of the President of the Millennium Assembly 55th session of the United Nations General Assembly.” This is an overview of all participatory rights NGOs accumulated throughout the 1990s (the first overview assembled in 1995) and which formally came to direct and heavily influence the development of modalities for CSD. This again has advised the HLPF and the privileges awarded major groups and NGOs expressed in that resolution.

Paragraph 13 is on regional commissions and regional meetings involving major groups;

Paragraph 14 states that “while retaining the intergovernmental nature of discussions, and in this regard decides that the forum will be open to the major groups, other relevant stakeholders and entities having received a standing invitation to participate as observers in the General Assembly, building on ... CSD”

Paragraph 15 is the key paragraph concerning the rights of major groups and other relevant stakeholders:

“... while retaining the intergovernmental character of the forum, major groups, other relevant stakeholders will be allowed:

- (a) To attend all official meetings of the forum;
- (b) To have access to all official information and documents;
- (c) To intervene in official meetings;
- (d) To submit documents and present written and oral contributions;
- (e) To make recommendations;

(f) To organize side events and round tables, in cooperation with Member States and the Secretariat of the United Nations;”

Paragraph 16 is about the right to self-organise and include other stakeholder groups, and contains a challenge to the major groups to make sure the process is accountable, fair and transparent;

Paragraph 22 is another important paragraph, which also allows major groups to become part of the agenda setting process of the HLPF. The paragraph is quoted in its entirety:

“Requests the President of the General Assembly and the President of the Economic and Social Council to coordinate with the Bureau of the Council and with the bureaux of the relevant committees of the General Assembly to organize the activities of the forum so as to benefit from the inputs and advice of the United Nations system, the major groups and other relevant stakeholders, as appropriate;”

Paragraph 22 through requesting the Presidents of the UNGA and of ECOSOC, shall “ ... organize the activities of the forum so as to benefit from the inputs and advice of the United Nations system, the major groups and other relevant stakeholders, as appropriate”. This can and should be interpreted in such a way that this is a strong invitation to contribute to agenda-setting of the forum. This can be organised in a systematic way, by inviting the nine major groups to analyse on a year by year basis the situation of sustainable development in the world, and through a well argued document, propose items to be on the HLPF agenda. These documents must of course be handed in to the HLPF secretariat according to a set deadline. Again, such a process was in place through the background documents written by major groups for the Review Years of CSD, so in that sense, an agenda-setting process as suggested here may not be seen as something new.

The interpretation will in the final stages rest on the shoulders of the deciding elements of the HLPF when it comes to agreeing on the final agenda. The question then remains – which are the deciding elements of the HLPF when there is no Bureau: the Presidency of ECOSOC for three years and the office of the PGA every fourth year? And if so – how does such an interpretation harmonise with the crucially important words “under the auspices of” referred to in paragraphs 3, 6 and 7 of the HLPF resolution.

Paragraph 24 is about helping to fund representatives from major groups irrespective of their country of origin. The text in paragraph 24 states, inter alia: “ ... a voluntary trust fund of the forum in order to facilitate the participation of developing countries, the least developed countries, representatives of major groups and other relevant stakeholders ... “.

To understand this paragraph, a wider context needs to be provided:

In earlier instances when it came to funding members of the major groups’ community, there were specific references to major groups from developing nations. The official aid agencies from donor countries made such connections evidently clear and often obligatory. Paragraph 24 has a generic reference to major groups and with no direct specification of major groups

from developing countries. This should be interpreted as being in line with the changing realities of the world in which we live. The Rio+20 outcome document and the SDGs state that they respond to global concerns, concerns that are universally applicable, and such an understanding permeates this document more than any other UN document so far.

Over the years, arguments have been that international UN conferences have been dominated by Northern based NGOs. The assumption has been that this was because they were rich and could afford to travel. This view has been contested, though not vociferously, the reason being attitudes of solidarity expressed by the same northern based organizations in support of Southern based organisations. Consequently, northern based NGOs supported the special financial arrangements for NGOs coming from developing countries. A correct understanding of the north's interest in participating in these conferences, would be, however, that Northern based NGOs acted on what may be termed 'a participatory democratic legacy'. Towards the end of the 1800, non-state organizations from Western Europe and North America began attending international conferences, and by the 1970s such participation had become an integrated element of their programmatic work. Because of this, they also seemed to dominate the intergovernmental arenas. At the same time, the developing world was struggling to develop their socio-political infrastructure with little money – or interest - in building civil society. Believing in international capacity building, authorities from donor countries encouraged southern based organisations to participate in intergovernmental processes. As a consequence of this policy, donor countries established a number of generous travel grants earmarked for organisations from developing nations. Many of these grants were directly tied to the UN system, and others were established directly tied to donor embassies in developing countries. No such system was ever established for Northern based NGOs. Those NGOs working on development-aid programmes often had means to travel, as annual contract meetings and review of projects demanded travel. Environment NGOs, however, did to a much lesser extent work on projects, and their travel budgets were and still are, meagre.

Over the last two decades travel grants for the entire global non-governmental community has dwindled. The developing world is also undergoing economic expansion, and many traditional donors are now of the opinion that as former developing countries are experiencing economic development, they should also fund their own members of the NGO community. Many of the Northern based donors have also come to realise that organisations working on sustainable development often have little or no money to travel for. As the North-South discourse is slowly changing, so is the global discord relating to members of the non-state community. The fact that there is no direct reference to “members of the major groups from developing nations” in paragraph 22 is proof of this argument.

Box 3 - Summarising modalities⁴⁵ and rights granted major groups in the HLPF

- To attend all official meetings of the forum including those organised by the Regional Commissions;
- To have access to all official information and documents;
- To submit documents and present written and oral contributions;
- To make recommendations;
- To organize side events and round tables, in cooperation with Member States and the Secretariat of the United Nations;
- To self organise

What is relatively new in the HLPF resolution, are the following items:

- That major groups are invited to actively participate in reviews of implementation; (paragraph 8 of the HLPF);
- That they have the right to intervene in meetings (paragraph 15 of the HLPF);
- That they can contribute to agenda setting and preparation of HLPF meetings (paragraph 22 of the HLPF);
- That funding for invited members of the major group constituency can be given from the UN irrespective of the geographical origin of the major group members (paragraph 24 of the HLPF);
- In addition the scientific community has been given special tasks to participate in the work of HLPF (paragraph 20 of the HLPF) as strengthening the science-policy interface is a mandate of the HLPF.

In order to interpret these rights and translate them into operative modalities, and based on the directive given by paragraph 84 of the Rio Outcome Document, a return to CSD and an exploration of the modalities of this institution is necessary.

⁴⁵ For further information, please refer to the presentation *Modalities for HLPF* by Jan-Gustav Strandenaes: <http://sustainabledevelopment.un.org/content/documents/7412strandenaes.pdf>

4.0 - Modalities of engagement: two decades with the Commission on Sustainable Development⁴⁶

4.1 – Overview of the CSD history

According to paragraph 84 of the Rio+20 Outcome Document, the HLPF should build upon the participation modalities of CSD. This chapter will summarise these participation modalities. But to better understand how these modalities developed, it is important to give a short overview of the sustainable development context in which these modalities were developed.

CSD was the global home of sustainable development for two decades, (1993 to 2013) with incrementally improving modalities for major groups. CSD was given a reasonably forthright and strong mandate from the UN Conference on Environment and Development, UNCED in 1992, and with ample time to work: annually first with two weeks of preparatory work and then two weeks of negotiations to arrive at agreed outcomes.

Two seminal conferences changed the direction of content and modalities for CSD in dramatic ways. The first such conference was the Rio Plus 5 in 1997 reviewing global sustainable development five years after the first Rio conference. During this seven week process in 1997, run as a UN General Assembly Special Session, (UNGASS), a few novelties were introduced. One of the more substantial was the introduction of a two day multi-stakeholder dialogue session organized and developed by the CSD secretariat and the major groups and chaired by the CSD Bureau Chair with the major groups as the key participants and with delegates as creative and active co-participants. The two-day dialogue was subsequently integrated into the official CSD deliberations making its outcome an integrated element of the final CSD outcome report.

The second major UN conference that had a substantial effect on CSD, was the World Summit on Sustainable Development, (WSSD), in Johannesburg in 2002. Among the decisions made at this conference, two came to have a direct influence on the organizational structure and modalities of CSD. One was that CSD was to be run according to an agreed and set thematic agenda between 2003 and 2017. The other was the introduction of the two year cycle: the first year was to be a Review Year analyzing the thematic issue for that period, the second year was a Policy Year, resulting in an agreed outcome based on the Chair's text summarising the deliberations of the Review Year. CSD 11 in 2003, which decided on the modalities of the CSD, made several decisions impacting on the presence of the major groups. One major change was to reduce the dialogue session from two days to one and a half hour, and further relegating the dialogue session to a session of posturing on political themes with some relevance to the themes of the CSD. And as the political importance of the dialogues session was reduced, the logical thing to do was to discontinue reporting on the dialogues session as an official input into the outcome document.

⁴⁶ To repeat: CSD, the Commission on Sustainable Development, a functional committee under the Economic and Social Council, charged with following up work on Agenda 21 and the Johannesburg Plan of Implementation, both dealing with global sustainable development.

The Johannesburg Plan of Action, (JPOI)⁴⁷, was rife with words expressing the continued importance of sustainable development. But as often is the case, good deeds and intentions amount to little if there is no real political will to set principles in stone and implement decisions. Citing the loose mandate emanating from the JPOI, despite having been given a new life until 2017, many observers from the research society and from the major groups' community felt that CSD was in effect weakened by the CSD-11 outcome document in 2003 which had translated the JPOI mandate into political reality.

4.2 - Modalities for major groups

The secretariat also introduced a few changes which affected the efficiency and relevance of CSD including the role of major groups. The most dramatic change here was the removal of the Task Manager system⁴⁸ in 2003, and reducing the importance of the country reporting system. Little was known, and to an extent less was understood at the time, that these moves also reflected opinions voiced by the most conservative governments and coincided well with their opposition to sustainable development. One of the repeated criticisms made by governments against the CSD during the second decade was its lack of implementation focus. But the CSD did not fail sustainable development and its implementation; governments did by slowly eliminating sustainable development from their national policy priorities and by ignoring the CSD. Despite the growing governmental opposition to CSD and inherent official political lethargy to sustainable development in general, participatory rights continued to improve and modalities were streamlined to allow the major group system to become an efficacious tool promoting sustainable development governance propagating the interest of NGOs and major groups and prompting a number of observers to name the second decade of CSD the "CSD Golden Years."⁴⁹

Adams and Pingeot⁵⁰ presented in their paper a comprehensive overview of what the major groups did at CSD in mapping the role and functions of major groups, civil society and stakeholders through particularly the first decade of CSD. The references in their paper also reflect the first ten years more than the last ten. There is a significant difference in how the major group system operated between the first and second decade. During the first decade the major groups, civil society and other stakeholders were run by a Steering Committee with the difficult task of politically representing all the different nine major groups. The Steering Committee with a host of sub-committees, were all elected through a cumbersome and at times overly detailed election system. The system however, represented a valiant effort at making the Steering Committee into a democratically elected body and as such, a representative one. Unfortunately reality showed that the election processes at times were of a perfunctory character. One of the reasons for this system was that the major groups were often given only

⁴⁷ JPOI – The Johannesburg Plan of Implementation, the WSSD Outcome Document, 2002

⁴⁸ The 'task manager function' representing the various UN agencies responsible for following up elements of sustainable development, FAO for sustainable agriculture, UNESCO for education on sustainable development etc, was discontinued after CSD 11 in 2003.

⁴⁹ For an overview of how the CSD two year process was organized, see ANNEX III

⁵⁰ Adams and Pingeot: Strengthening Public Participation at the United Nations for Sustainable Development: Debate, dialogue, Dissent, Deliberation, a study for UNDESA, June 2013

one voice at the CSD plenaries, and the Steering Committee was at pains to arrive at one statement reflecting the views of all the nine major groups. This changed dramatically during the two day dialogues session, which gave the nine major groups the primacy role at CSD during these two days.⁵¹

Building on the experiences amassed during the first decade of CSD, modalities for the major groups changed, during the second decade, and some say for the better. The second decade saw the emergence of the Organising Partners, a number of plenary presentation modalities were developed and refined, quality demands made on selection and reporting⁵² and real participation in plenaries increased substantially – despite the loss of the two day dialogue session. (The Organising Partner concept as the facilitating unit for the major groups is explained in detail in ANNEX IV). The loss of this dialogue session was more important in terms of its effect on policy and thematic outcome, than the loss of time. The dialogues had allowed major groups and governments to engage in a free flowing, often in-depths discussion on substantial issues relating to sustainable development themes, thus strongly adding quality to the CSD outcome document.⁵³ During the second decade it also became apparent that the nine major groups often could agree on process questions, but differed substantially on policy and analysis of sustainable development issues. And keeping the nine separate, allowed for nine different analyses of the CSD themes. After having lobbied consistently over a few years, often using the phrase ‘Nine or None’ in different contexts, delegates came to agree to give each of the nine major groups time-slots during plenaries to present the views of their own constituencies.

4.3 - Modalities and structure, by CSD 11, 2003

The UN CSD offered the world at the time one of the most open and participatory intergovernmental processes on sustainability issues. With a renewed mandate from the JPOI⁵⁴, CSD started to work with a focus on sets of cluster themes known as ‘thematic clusters’⁵⁵. The themes were analysed and negotiated within two-year cycles complete with its organisational choreography as decided by CSD 11 in 2003. As negotiations at CSD 11 ended, a set of modalities had been developed and despite some very close calls, appeared acceptable to the major groups:

“The decision states that contributions to the CSD from major groups, including the scientific community and educators, should be further enhanced through measures such as:

⁵¹ This multistakeholder system was modeled on the dialogues successfully used at the UN Habitat Conference in Istanbul in 1996, Habitat II.

⁵² See ANNEX IV for the Terms of Reference for Organizing Partners for major groups, overview of formal decisions etc, written by the CSD secretariat.

⁵³ For a thorough analysis of the effect of the dialogues sessions, see Ferenz, Michele (2002) ‘Multistakeholder Dialogues: Learning from the UNCSD Experience’, Background Paper No. 4 for the Third Preparatory Session, 24 March–15 April: Commission on Sustainable Development, Department of Economic and Social Affairs, United Nations.

⁵⁴ JPOI, the Johannesburg Plan of Implementation, decided on at the UN Summit on Sustainability, the WSSD in Johannesburg 2002 as the principal outcome document from that summit.

⁵⁵ The CSD thematic agenda from 2004 – 2017, see Annex V

- strengthening major group participation in CSD activities, including through the interactive dialogue during the high level segment;
- making multi-stakeholder dialogues more action and implementation oriented;
- enhancing participation and effective involvement of civil society and other relevant stakeholders in implementation, as well as promoting transparency and broad public participation;
- striving for a better balance and better representation of major groups from all regions; and
- supporting active involvement in partnership-related and capacity-building activities at all levels, including the Partnership Fairs and Learning Centre.”⁵⁶

5.0 – Participation and access through two decades of CSD

5.1 - CSD – summary of modalities and structure, focussed on major groups

CSD modalities for major groups’ participation, developed through twenty years, can be summed up in many ways. The following summation follows by and large the structure of the HLPF in terms of rights granted to major groups. All the modalities presented here can be directly transferred to the HLPF. Whereas many of these modalities referred to below were used efficiently and by precedent under the auspices of CSD, they should now be utilised formally under the auspices of HLPF.

5.2 – Accreditation

All organisations with a proven, explicit and substantiated interest in sustainable development and having worked on such issues for a while, were accredited to CSD through various formats (ECOSOC accreditation, DPI⁵⁷, or fast track). This allowed some 5 – 700 NGOs to register annually to the different CSD meetings. Not all these did participate, but they were recognised as bona fide NGOs and parts of the major group system irrespective of their thematic interest.

5.3 - Access and attendance

Access and attendance to all meetings were granted – except to meetings designated as ‘closed’; all NGOs accredited to either ECOSOC, DPI or through the fast track accreditation system had access to all official meetings, were present on the ‘floor’, were allowed to sit in on these meetings, observe, take notes and talk with delegates; in none of these meetings were any of the several hundred major group members restricted to sit only in the designated seats for them and other observers at the back of the conference rooms, but could move freely around as well as in and out of the rooms.

⁵⁶ From the CSD 11 official outcome document

⁵⁷ UN DPI, UN Department of Public Information can also accredit certain NGOs

5.4 - Access to all documents, including background and outcome documents

Already at the outset of CSD in 1992-93, major groups were considered valuable and important contributors to the implementation of sustainable development. They, perhaps more than any, carried the promise of bringing the global issues back to the people, and brought local and national issues to CSD in return. Important in national reviews and bringing the voices of the many to CSD, major groups were also given access to all official background papers. This praxis was enhanced during the second decade. With the streamlining of internet and e-systems, the organising partners (OPs) of the major groups were in 2009 (CSD 17) also given negotiating texts sent via e-mail for further distribution as they evolved through the review and policy sessions. This practice continued through to the end of the Rio+20 Process.

5.5 - Access to interventions and verbal comments on official documents in plenary sessions

From the very outset of CSD, major groups were allowed to speak in plenary sessions. The final modalities system allowed the Organising Partners of the major groups, or their designated speakers selected by each of the nine major group constituencies present at CSD, to make a three minutes opening statement on the first day of the Review Year of the CSD, a statement based on the substance of the 8000 word background paper written by each of the major groups (see below). The Policy Year followed suit, with the caveat that this opening statement had to be on policy issues and not on review. The statement also had to be based on the policy summary developed and agreed to by each of the major groups (see below).

In addition, the major group representatives were supposed to play an active and major role in the multistakeholder dialogues, and each of the nine major groups were also always granted a final statement at the conclusion of the all CSD conferences.

Soon after CSD 11 in 2003, the secretariat developed a system called ‘entry points’ to plenary sessions⁵⁸. To be able to take part in the plenaries, a system was devised using simple “request slips”; these were merely pieces of paper on which major group representatives would jot down their comments or questions, hand it to members of the CSD secretariat who in turn would give the slips of paper to the Bureau, and advise the Chair to call upon the specific major group representative to speak. The major groups were then invited to speak during sessions, and not only given concluding statements at the close of the sessions. The modalities paper written by the CSD secretariat at the time⁵⁹ stated:

“The way major groups can participate in the thematic, regional and SIDS discussions include:

⁵⁸ See ANNEX VI - Information note on Modalities from the CSD Secretariat. Similar notes were sent to participants at every CSD – period 2004 – 2010.

⁵⁹ Papers from the CSD Major Groups coordinator upgraded these papers for every CSD after having coordinated the content with the CSD Bureau.

- Be recognized by the Chairperson based on the submission of their comment/question by filling in the “Request Slips⁶⁰” – in the event this system is being used during that session. (The “Request Slips” will be collected by the major groups’ team staff.)
- Be recognized by the Chair by raising the major group’s sector name plate;

Interventions made during this sessions must be brief (2-3 minutes max). The identification of speakers among the major groups will be coordinated through the major groups organising partners and the caucuses, and should be communicated to the Secretariat a day before the session.”⁶¹

The major groups were also allowed to write down these interventions, send them to the secretariat, who in turn would post them on the official CSD website. The fact that these questions were made as the negotiations went on, allowed all participating major groups to contribute to the debate as it evolved. Demanding that the major groups would identify questions and speakers weeks in advance would effectively forfeit the purpose of immediacy, and render the usefulness of immediate response and contribution nil and void. Member States came to appreciate the orderly ways in which major groups were allowed to ask questions and thus intervene with relevant comments.

5.6 - Interventions in the plenary, to comment on the Chair’s text

The major groups also wanted to comment on the Chairs text in plenary, but this posed a considerable formal problem as a majority of countries said they would see this as interventions in an ongoing negotiation, and they would not allow any major group to participate actively in such a process. If allowed, they asserted, this would violate the basic principles of intergovernmental processes, rules of procedure as well as the essence of the intergovernmental nature of a functional commission under ECOSOC. After all, they said, delegates represented governments elected by its people, major groups or NGOs were not elected by a national constituency open to all or even by their own members. Again with creativity and knowledge of the system, a process was devised. A contextual background is needed to fully grasp the modalities that were developed in this context.

CSD 11 in 2003 had been all about process. CSD 12 and 13 were the first two-year sessions of the ‘new generation of CSD’ and everybody knew that whatever took place during these two years could set precedents -- good or bad. CSD was then considered important, also to governments, and CSD 11, 12 and 13 were all chaired by ministers: CSD 11 was chaired by Mr. Valli Moosa, Minister of Environment and Tourism, South Africa, CSD 12 was chaired by Mr. Borge Brende, Minister of Environment, Norway, and CSD 13 was chaired by Mr.

⁶⁰ Request Slips: Whenever possible, paper request slips briefly defining the issue or question to be addressed would be collected by the secretariat during plenary sessions from anyone requesting the floor and given to the Chair to help facilitate a more coherent discussion. The information contained in the request slip included: name, title, identification of the major group to which the speaker belonged, and the question/theme to comment. This method was used last during the past CSD implementation cycle and proved to be successful.

⁶¹ From information note by the CSD secretariat to the Organising Partners of the major groups, see also Annex VI

John Ashe, Minister of Sustainable Development, Antigua and Barbuda. Several Ministers participated in CSD 13, also representing other departments than ministries of environment.

There was to be a significant difference in perceived political importance of the two CSD years. The Review Year was a fact finding session, considered by all, members states and the UN, to be more relaxed where almost all contributions from accredited participants were allowed and welcome. After all, Review Years were not about negotiating a final official outcome document. The Policy Year on the other hand was the session to negotiate the final outcome document, and as such it carried more political weight – at least to negotiators, and formalities and rules of procedure during this session were more jealously guarded by member states⁶².

CSD 13 was a Policy Year, the first of its kind, politically sensitive and consequently also precedent setting. At this CSD all nine major groups were given the right to present their comments and concerns to the Chair's text in an official plenary session. During the Friday morning plenary of the first week of CSD 13, each of the major groups was allowed a three minute statement, commenting on the Chair's text. These comments were made at the very beginning of this particular plenary session, before the negotiations had started but with all member states in the room. The Chair opened the session, and made a statement to the delegates saying that he would allow major groups to comment and make suggestions to his proposed report before the official negotiations were to start. He naturally asked delegates if they had any objections, and seeing and hearing none, the meeting proceeded as proposed. The Chair made a point of saying that what the major groups said this morning was to be considered as mere statements from major groups, and not as arguments in a governmental negotiation. The major groups' statements went uninterrupted and their statements were distributed to the delegates as per normal meeting procedure, (see also ANNEX VII.)

The major groups also proposed that their comments should be annexed unedited to the final text of the CSD. This was not accepted by the member states at this time.

The first two-year cycle of CSD had made a number of important decisions on modalities for major groups that created significant precedents:

- During the Review Year, when many of the official sessions were based on panel discussions, representatives from the nine major groups had often been asked to be part of the official panels;
- A fair assessment of the novel practice using 'Request Slips to provide entry points,' during the Review Year, would be to claim that major groups were given the right to present oral and written contributions as well as to submit documents during official sessions. These processes were also employed during the Policy Year, although with somewhat less frequency; and
- Finally with the acceptance of member states to allow major groups to comment on the Chair's text during a plenary session during the CSD Policy Year, member states had implicitly accepted the principle of intervention for major groups, though not negotiation during official CSD sessions.

⁶² For the entire organizational structure of CSD from 2003 to 2017, see Annex III.

5.7 – Presentation of written documents

Each of the nine major groups was tasked with researching, writing and developing an 8000 word document⁶³ on the CSD agenda themes. These documents had to be finished and handed in to the CSD secretariat by a definite date at the beginning of December prior to the Review Year. The secretariat would then make sure these documents were translated into all official UN languages, and sent to the members of CSD as an official UN document and as an integrated element of the background papers for the upcoming CSD Review Year. They were also posted on the CSD website. Any of the accredited organisations to CSD was also allowed to produce their own background or position paper on the CSD themes, and provided they would reach the CSD secretariat before a final deadline, the secretariat would provide these papers with a UN cover note, and distribute them to all participating nations at CSD. These documents were however, unedited and available only in the language in which they were originally written.

All accredited and interested non-state actors were also invited by the CSD secretariat to contribute to the Secretary General's report, which was the major background document for the Review Year. The deadline for this input was early in the autumn in the year prior to the Review Year.

This system of producing papers by major groups was repeated for the Policy Year. However, the major group policy statement was now to be based on the outcome report from the Review Session and only be a maximum of 1000 words. Again this document would be translated into all UN languages and distributed to all UN member states as an integrated element of the official CSD documents.

5.8 – Organization of side events, round tables, etc. in cooperation with Member States and the Secretariat of the United Nations

CSD process and modalities allowed for a multitude of parallel events to be organised. The purpose of these activities was to heighten the factual input into the CSD deliberations. Major groups were all invited to participate as actively as possible. This included:

- Organising side events;
- Participating in organised side events;
- Participating and presenting at the Learning Centre;
- Participating in the NGO administrated morning meeting⁶⁴;
- Participating in the special policy sessions for each major group (also organised daily according to the needs of the individual major group);

The CSD secretariat organised regular meetings with the Bureau for the nine major groups co-organising partners. The Chair of the Bureau did, if invited by the major groups, address the

⁶³ ca 14 to 15 pages, double spaced, 12 point Times Roman font

⁶⁴ These meetings, organised every morning during CSD including during the Intergovernmental Preparatory Meetings (IPM) were open to all NGOs/civil society and major group representatives

NGO morning meeting; They often designated one Vice-Chair from the Bureau to be a liaison with major groups, which was also the case during Rio+20 preparatory process.

Governments and their political groupings invited at times a number of key representatives from the major groups and had meetings with them (often a practice used by the EU, the US and USCANZ/ JUSSCANNZ, never by G-77)⁶⁵. The selection of the representatives was always done in collaboration with the Organising Partners of the major groups.

CSD often had a plethora of side events, some with only tangential relevance to the agenda themes. At the beginning, the philosophy of ‘the more the merrier’ seemed to carry the day, but after a few years, major group representatives and delegates alike suffered from what was jokingly referred to as ‘side event overkill’. The major groups developed a proposal to get around this problem: That the CSD secretariat regulate the number of side events with a keen eye to relevance and content, that each of the three actors at CSD – delegates, representatives of the UN and major groups - were given a certain quantity each to organise, and that the outcome of the side events be annexed to the Chairs report. Side events -- those that were good – were often of high quality – and many delegates openly said that they came away with new ideas and a deeper understanding of the issues at stake. The proposal was that the individual organiser would be responsible for the reporting from the side event, and that a template be developed by the CSD secretariat to systematise the reporting. The proposal was handed to the Bureau of CSD on two different occasions, but failed to get acceptance. Reasons cited were lack of capacity. The number of side events did get reduced after a while. CSD also organised roundtables open to major groups. In addition, there were Ministerial Roundtables at CSD, but exclusively reserved for Ministerial participation. Not even the minister’s key advisers were allowed to participate.

5.9 - Regional meetings

The five regional commissions of the UN organised CSD meetings covering the same agenda points as the proper CSD did, and should have used by and large the same modalities that were accepted and used by the CSD at the UN headquarters in New York. UN ECE was however the only region where these rules were utilized completely. The other commissions often designed rules of their own, and most did not use the major group concept until the Rio+20 Process was in full development. Still, these so called Regional Implementation Meetings (RIMs), had a high and more often than not, transparent and active involvement from the NGOs and major groups communities.

Unfortunately, there was no system to rigidly enforce the modalities developed and accepted at the CSD sessions in New York, and during a few RIMs, there were a few ugly incidents where some of the UN regional commission secretariats tried to invoke their own narrow interpretation of participatory rights for major groups which temporarily resulted in the exclusion of several non-state actors from these RIMs. Fortunately as time went by, such incidents were few and far between.

⁶⁵ USCANZ The USA, Canada, Australia and New Zealand; JUSSCANNZ Japan, the USA, Switzerland, Canada, Australia, Norway and New Zealand, Israel, Island, Russian Federation, Liechtenstein as well.

5.10 - Self-organising processes

All through the many CSD sessions, major groups used and were allowed to use the principle of self organising⁶⁶. Each of the major groups conducted their own policy meetings to arrive at statements for the plenaries, selected their spokespersons to any official meeting, organised their side events and wrote their own background papers. The Organising Partners (OPs) functioned as facilitators for these self-organising processes.

5.11 - Agenda-setting and funding

Funding was always provided for two to four representatives from the developing world per major group, except for the business and industry major group -- by the voluntary CSD Trust Fund. The selection of these representatives was again left to the Organising Partners to organise.

Agenda setting was never an issue during the second decade of CSD, as this period was run according to a set thematic agenda. Major groups had never been consulted on agenda issues during the first decade of CSD (1993 – 2002).

6.0 - Modalities from other UN bodies, a select group –

6.1 - Compliant with or better than HLPF

At the beginning of this paper, formal differences in modalities of engagement existing within the UN family were emphasised. As the HLPF is positioned “under the auspices of the UNGA and ECOSOC”, it has to comply with rules of procedures of the Committee of UNGA and functional commissions of ECOSOC. This implies developing systems that have to be in compliance with at a minimum Article 71 of the Charter. The paper also pointed out that the Specialised Agencies of the UN do take their political orders and other decisions from their own independent general assemblies, and would abide by decisions made in GA sessions or in ECOSOC contexts only if directed to do so by its own general assembly.

This paper has also drawn upon the experience from a few other UN bodies that do have systems in place that could serve as an inspiration to develop modalities for the HLPF (see Box 3). It would be too large a study to view all the different modalities that exist within the large UN family to see how they accept or integrate the wide variety of non- governmental organisations and to what level these organisations have been granted rights that respect the intergovernmental nature of the system.

In connection with process and structural work taking place at UNEP following the Rio+20 Outcome Document, the ‘Major Groups and Stakeholder Branch’ at UNEP has produced an overview over how various UN bodies deal with modalities and major groups and civil

⁶⁶ See ANNEX VII for an extensive example of a self organizing processes

society.⁶⁷ This report has inspired some of the excerpts referred to in Box 3. Highlighting what is happening at UNEP is of interest, not the least as this UN body is undergoing a process similar to the one at the HLPF.

6.2 - The new UNEP, after Rio+20

After having been adopted by Agenda 21, the major groups system was to become the operative system for NGOs at CSD beginning in 1993. After CSD, UNEP was the first – and to date – the only other UN body that has made use of the major groups system in its entirety⁶⁸. The UNEP Governing Council, acting on recommendations from NGOs as well as a committee established under the auspices of the Executive Director of UNEP, decided in 2002 to fully adopt the major groups system.⁶⁹ In 2007 the Major Groups Facilitating Committee (MGFC) was established, mimicking to a large extent the system and modalities of the Organising Partners at CSD. UNEP however also provided the MGFC with an extensive set of guidelines on how to conduct its work.⁷⁰ A fair portion of its content was taken from the major group modalities in existence at CSD, and in almost all matters it resembles the present modalities for the major group Organising Partners.

UNEP has however added what was called a ‘significant addition’ to the major groups, and the term ‘stakeholders’ re-emerged. Their office dealing with the non-state actors is now called “The Major Groups and Stakeholder Branch”. However, UNEP has not made any effort to define which stakeholders are referred to, but allows the context to decide.

UNEP has added a novelty in allowing major group representatives to participate with full speaking rights in what they call “UNEP Ministerial Roundtables”. These roundtables are all conducted at a high level, politically and thematically -- often at Ministerial level -- and also conducted under strict procedural rules where the Chatham House Rule⁷¹ is invoked. With no audience present, all participants, Ministers, Ambassadors, regular delegates and major group representatives are free to speak their mind on the designated theme. The reports from these roundtables are written only to reflect the highlights of the discussion and fed into the larger negotiating processes being conducted in plenaries at UNEP.

⁶⁷ Review of Current Practices of Stakeholder Engagement in Multilateral Organisations, 30 July 2013, UNEP. The study is a good overview of some of the central institutions at the UN and how they deal with non-state actors.

⁶⁸ A few other UN bodies are now mimicking or taking inspiration from the major groups system and establishing similar systems to deal with the NGO community – several of the Multilateral Environment Agreements, including the Rio Conventions: UNFCCC, UNCBD and UNCCD are among these

⁶⁹ UNEP - SSII.5 of 15 February 2002

⁷⁰ “Guidelines for Participation of Major Groups and Stakeholders in Policy Design at UNEP”

<http://www.unep.org/civil-society/DocumentsandResources/GuidelinesandPolicyDocuments/tabid/102280/Default.aspx>

⁷¹ The Chatham House Rule reads as follows:

“When a meeting, or part thereof, is held under the Chatham House Rule, (there is only one!) participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.” The world-famous Chatham House Rule may be invoked at meetings to encourage openness and the sharing of information. It is now used throughout the world as an aid to free discussion and to guarantee the anonymity of the speakers.

Box 4: Excerpts and analysis from the “Review of Current Practices of Stakeholder Engagement in Multilateral Organisations” (30 July 2013, UNEP)

As described throughout Chapter 2, UN bodies utilize significantly different formal procedural approaches in affording participatory privileges to NGOs. Following is an excerpt showcasing some of those institutions in the UN family and their different ways of working with and integrating the NGO community. These examples are often referred to as the best participatory modalities of NGO participation and could be utilized to make the UN system into a coherent ‘modalities system’. However, it should be repeated that the institutions shown in this box have different formal positions within the UN system, and as such their modalities may not be for a number of formal reasons, entirely transferable.

The Committee on World Food Security (CFS)

CFS is often referred to as a body with a high level of NGO/civil society participation in the intergovernmental processes, and with a considerably higher level of self-organization for the NGO/civil society organizations than found in any other UN body. The CFS organisational processes have established an Advisory Group (AG), consisting of members almost exclusively from civil society. What is different from CSD/HLPF modalities and rights is the close interaction between the AG and the Bureau of CFS.

However, looking closely at the CSD Bureau and the meetings carried out between the CSD major groups organizing partners (OP)s and the CSD Bureau, this process is not dissimilar. However, members of the AG have often been invited by the CFS Bureau to contribute to writing the final outcome document from its meetings, the OPs were never offered this opportunity. The major formal difference between CFS and HLPF is that CFS answers to the FAO, a UN Specialised Agency with its own general assembly, and HLPF to the UNGA and to ECOSOC. Nineteen groups are represented at the CFS all ostensibly representing civil society.

The United Nations Permanent Forum on Indigenous Issues (UNPFII)

UNPFII and HLPF are both designated as a forum, however they differ in formal standing in the UN system. The UNPFII is an advisory body under ECOSOC, advising various bodies of the UN through ECOSOC on indigenous issues in different organizational contexts. The HLPF is a hybrid providing a platform for discussion on sustainable development under the auspices of the UNGA and ECOSOC making immediate comparison between the two slightly difficult. Membership in the UNPFII consists of 16 independent experts functioning in their personal capacity. Eight of them are nominated by governments and eight are nominated directly from their regional indigenous organizations for a term of three-years.

The Members nominated by indigenous organizations are appointed by the President of ECOSOC and represent the seven socio-cultural regions determined to give broad representation to the world’s indigenous peoples.

These regions are Africa; Asia; Central and South America and the Caribbean; the Arctic; Central and Eastern Europe, Russian Federation, Central Asia and Transcaucasia; North America; and the Pacific—with one additional rotating seat among the three first listed above.

The Global Fund to fight AIDS, Tuberculosis and Malaria (GFATM)

The Global Fund is run by a Board with representatives. NGOs/civil society have played a crucial role on this board, as they were seen to be the contacts to the peoples in the field.

The composition of the board is:

- Seven representatives from developing countries,
- One representative based on each of the six World Health Organization (WHO) regions and
- One additional representative from Africa;
- Eight representatives from donors; and
- Five representatives from civil society and the private sector.

Many have used this as an example of engaging with representatives from major groups, the global NGO community including members of civil society organisations implying that the entire UN system should benefit from this example. There are a number of formal problems with such a comparison, because the nature of the Fund and the UN under the GA and ECOSOC represent two completely different worlds. The fund is a stakeholder partnership and is not even remotely connected to the governing structure of the UN. Technical UN agencies are represented on the board, but it is important to note that the Fund is totally independent from the UN system. It is also different from UN specialized agencies like FAO, UNESCO or WHO.

The Joint United Nations Programme on HIV/AIDS (UNAIDS)

UNAIDS is a joint venture of the UN together with its technical agencies (UNHCR, UNICEF, WFP, UNDP, UNFPA, UNODC, ILO, UNESCO, WHO and the World Bank). It was the first to have formal NGO/civil society representation on its governing body. The position of non-governmental organisations on the UNAIDS Programme Coordinating Board (PCB) is critical for the effective inclusion of the community of voices to be represented and heard in the key global policy forum for AIDS.

UNAIDS seeks to reflect in its structures and operating procedures, the values it espouses and promotes to countries, including in its governance structure by including NGO/civil society representatives as non-voting partners to member states. Though technically NGOs do not have “the right to take part in the formal decision-making process” of the PCB, in practice NGOs fully participate and are essential, respected stakeholders in decision-making processes. It is emphasised, they do not, however, have voting rights. This is then totally in compliance with formal ECOSOC rules of procedures as they apply to NGOs.

However, UNAIDS is not a UN programme like UNDP or similar institutions. The fact that it is a partnership is the main reason why NGOs/civil society could have the representation it has.

Even though many like to use this institution as an example of integrating NGOs and civil society with intergovernmental UN processes, it is important to be aware of the formal differences between the UN institutions.

UNOCHA is another institution often used as an example of how to integrated NGOs at a high level. UNOCHA has however a structure which is very similar to what is the case at UNAIDS with the same formal issues involved, and as such does not have to struggle with the formalities of bodies under the UNGA or ECOSOC.

The Strategic Approach to International Chemicals Management (SAICM) is a body whose formal position as an intergovernmental body is interesting to use. It is a policy framework to foster the sound management of chemicals. It was developed by a multi-stakeholder and multi-sectoral Preparatory Committee and supported by the achievement of the goal agreed at the 2002 Johannesburg World Summit on Sustainable Development of ensuring that, by the year 2020, chemicals are produced and used in ways that minimize significant adverse impacts on the environment and human health. SAICM was adopted by the International Conference on Chemicals Management (ICCM) on 6 February 2006 in Dubai.

SAICM belongs to the International Conference on Chemicals Management (ICCM) and the “UNEP family”, and as an institution reports to UNEP.

- **Bureau**

Consistent with the multi-sectoral character of SAICM and in accordance with rule 15 in the enabling resolution, four representatives of non-governmental participants and the chair of the Inter-Organization Programme for the Sound Management of Chemicals participate in the discussions during the meetings of the Bureau for the purpose of advising and responding to the Bureau

Non-governmental participants elect four non-governmental Bureau members to represent each of the health, industry, trade union, and public interest groups:

Non-governmental stakeholders have been involved in SAICM since day one. Their active participation in the negotiations culminated in the adoption of the Strategic Approach in Dubai in February 2006. Their strong commitment and constructive contribution to implementation efforts is appreciated by all stakeholders and their engagement in the process is continuously sought.

- **Agenda-setting**

Non-governmental participants can request the SAICM secretariat to include specific items in the provisional agenda. At the beginning of each session, the governmental participants shall, after consulting with the intergovernmental participants and non-governmental participants, adopt the agenda for the session on the basis of the provisional agenda and any supplementary items proposed in accordance with rule 6 of the ICCM Rules of Procedure.

- **Decision-making**

The participants shall make every effort to reach agreement on all matters of substance and procedure by consensus. If a consensus is not achieved, the decision shall be taken by a two-thirds majority vote of the governmental participants or by a majority vote of the governmental participants. De facto, decisions are almost always taken by consensus. It is very unlikely that civil society representatives are asked to leave the room when a decision is being taken.

SAICM provides a unique platform for non-governmental representatives to work with Governments and Inter-governmental organisations on the issue of chemicals with an equal sense of commitment and responsibility to meeting the 2020 goal of Sound Chemicals Management.

It must be noted however, that SAICM is a single theme institution, as many of the above institutions mentioned in this box are.

Single issue institutions are more inclined to accept NGOs, major groups and civil society

It is easier for expert groups and the NGO community to interact with the substantive and thematic areas of single issue organisations. And since specialised expert groups, which many single issue NGOs are, can provide government negotiator with leading edge research results and incisive analysis of its relevance, delegates are more prone to integrate such 'expert' groups into the inner, formal sanctum of the intergovernmental system. It follows that delegates are then more inclined to design formal rules of procedure catering to this need.

7.0 – The Economic and Social Council (ECOSOC), a principal Charter Body of the UN

7.1 - Strict formality at ECOSOC

ECOSOC is a Charter Body of the United Nations dealing with global economic and social issues. It is mandated to preside over a subject matter that has become the most pertinent of global issues - to secure the wellbeing of all people (see Box 4). The future of HLPF and the Sustainable Development Goals (SDGs) will for the foreseeable future be tied to the ECOSOC system.

The mandate of this paper does not necessarily involve an analysis of the HLPF and its consequences for the UN system. Neither is the mandate to delve into the intricacies of ECOSOC. However, the Rio+20 outcome document emphasised the role of ECOSOC as the principal coordinator of sustainable development at the UN, and repeated references⁷² during the last two years at the UNGA to resolution 61/16⁷³ on strengthening ECOSOC, together with a newly adopted resolution on ECOSOC 68/1 (13 December 2013), necessitate a renewed focus on ECOSOC. Additionally as ECOSOC plays the principal role in accrediting NGOs at the UN, exploration of its relationship with NGOs, major groups and relevant stakeholders is also warranted.

The current resolutions on ECOSOC and the HLPF⁷⁴ tie these two UN bodies closely together. HLPF has not been given a clear-cut and operative mandate with a number of clearly defined functions as the CSD was given in 1993⁷⁵ by the UNGA resolution establishing it. But as HLPF has granted major groups, civil society and relevant stakeholders more privileges at the UN than any other UN body has ever done, it is necessary to discuss the possible operative systems of HLPF and make an effort to outline and delineate its functions and support systems within the formalities of the UN. Only then will it be possible to understand the potential modalities that may be envisaged for NGOs and major groups in the functions of the HLPF, further develop this potential, formulate modalities wisely and make sure they stay functional and operative over time. This may also strengthen the HLPF as the major groups and relevant stakeholders are integrated elements in the governance system of the HLPF.

As stated earlier, the UN system functioning under UNGA/ECOSOC formally recognizes only three entities as accepted players; these are the official national delegations, intergovernmental organisations and non-governmental organisations⁷⁶ (NGOs). For any

⁷² A/RES/66/288 (this is the resolution containing Rio outcome document) and A/RES/67/203 of 27 February 2013 “Implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the outcomes of the World Summit on Sustainable Development and of the United Nations Conference on Sustainable Development”, paragraph 2.

⁷³ A/RES/61/16, Strengthening of the Economic and Social Council, 9 January 2007

⁷⁴ A/RES/67/290 and A/RES/68/1

⁷⁵ CSD was provided with a Bureau and an election system and a succinct resolution describing the responsibilities of the Bureau, a CSD secretariat and a detailed overview of CSD’s agenda. See ECOSOC resolution E/1993/207, on the Establishment of the Commission on Sustainable Development, 12 February 1993 and UNGA resolution A/RES/47/191 on Institutional arrangements to follow up the United Nations Conference on Environment and Development, 29 January 1993

⁷⁶ See also Anita Anand in “Whose world is it anyway?”, John Foster & Anita Anand, editors, The UNA, Ottawa, Canada, 1999, page 67.

NGO to be accepted as an official UN player, to be accredited as the technical phrase is, a number of minimum criteria have to be met. The ECOSOC Committee on Non Governmental Organisations, sets the rules of accreditation, and it is this body that formally issues the letters of accreditation to NGOs. This ECOSOC committee consists of government members only.

The General Assembly and the Security Council have no direct formal or legal framework for NGO participation. In practice, however, the General Assembly has opened up to NGOs in recent years, for example with the “UN General Assembly Special Sessions” (UNGASS). The informal Civil Society Hearings that took place in the run-up to the 2005 World Summit and beyond, gave an entrance into the UNGA which created a precedent that with the UNGASS system allowed for greater interaction between NGOs and UNGA processes. Even in the Security Council, the UN Charter Body where the UN Member States have expressed their strongest positions to keep it exclusively for governments only, a protocol trick (the so-called Arria Formula) enables individual consultations with NGOs to take place. These take place outside Security Council premises and do not appear on the official Council agenda.

Through the Peacebuilding Commission, the Security Council has developed other channels to interact with NGOs and members of civil society, its members then often expressing how valuable NGOs and civil society are to governments.

7.2 - ECOSOC – the largest UN body

With its broad mandate ECOSOC’s purview extends to over 70 per cent of the human and financial resources of the entire UN system.”⁷⁷ The Charter of the UN established ECOSOC as one of its principal bodies. As a Charter Body it shares the highest tier at the UN, hierarchically second only to the General Assembly. ECOSOC’s existence, mandate and work areas are defined by Chapter X, (Articles 61 – 72) of the Charter of the United Nations.

Box 5: UN Economic and Social Council (ECOSOC)

“ECOSOC was established under the United Nations Charter as the principal organ to coordinate economic, social, and related work of the 14 UN specialized agencies, functional commissions and five regional commissions. The Council also receives reports from 11 funds and programmes. The Economic and Social Council (ECOSOC) serves as the central forum for discussing international economic and social issues, and for formulating policy recommendations addressed to Member States and the United Nations system.

ECOSOC oversees, works with and receives reports from nine (9) Functional Commissions, the five (5) UN Economic Regional Commissions, three (3) Standing Committees, one (1) ad hoc body (at present), three (3) expert bodies composed of government experts, five (5) expert bodies composed of members serving in their own capacity, two (2) Ad hoc advisory groups (one on Africa and one on Haiti), one Public-Private Alliance on Rural Development. It coordinates the biannual Development Cooperation Forum (DCF). DCF is seen as a

⁷⁷ From ECOSOC’s website

principal function of ECOSOC and is charged with working on global partnership for development as outlined in the Monterrey Consensus, the Johannesburg Plan of Implementation and the Millennium Declaration.⁷⁸

Several studies have shown that ECOSOC has been quite successful in promoting the development debate, often identifying emerging issues and offering guidelines for policy makers. Member states have viewed ECOSOC as an impartial and objective forum and some have asserted that the non-binding nature of decisions and resolutions from ECOSOC have been an asset in furthering policy debate. Such debate has contributed substantially to the body's considerable achievements in the development of ideas – obviously held within its mandate of economic and social issues.⁷⁹ Because of this, ECOSOC is important to the future of the HLPF-SDG issue. At the same time, there have been concerns even within the UN about the lack of impact of ECOSOC on implementation, about its lack of flexibility at times to respond to emerging issues and about its over-crowded agenda, which has defied several decades of attempted reform.

7.3 - Strengthening and reforming ECOSOC: implications for major groups

During the negotiations on the HLPF resolution in June 2013, quite a few member states referred to the need to strengthen ECOSOC, and references were made to resolution 61/16 from 2007⁸⁰. Throughout 2013 this theme was discussed frequently, and the Rio+20 outcome document also stated that ECOSOC plays a paramount role in the integration of the three dimensions of sustainable development.

Resolution 61/16 also established in 2007 the Annual Ministerial Review (AMR) and the Development Coordination Forum (DCF). The resolution talked generously about NGOs and civil society, and it was implicitly understood that ECOSOC would come to rely on NGOs and civil society organisations to implement programmes referred to in this resolution. The rules of procedure for NGOs at ECOSOC, however, were not changed in 2007 and the AMR sessions were run strictly according to the ECOSOC Rules of Procedure. In dealing with the DCF, paragraph 4d of 61/16 states:

(d) “(DCF) in accordance with the rules of procedure, (shall) be open to participation by all stakeholders, including the organizations of the United Nations, the international financial and trade institutions ... ”

Key words in this resolution, as in so many of these resolutions, are: “in accordance with the rules of procedure” – and the rules of procedures here are undoubtedly those of ECOSOC. And ECOSOC Rules of Procedure do not allow NGOs into meetings of ECOSOC, except by exclusive invitation. The NGO related rules of procedure are further discussed below. Neither

⁷⁸ From ECOSOC's website

⁷⁹ See for instance Richard Jolly, Louis Emmerij, Dharam Ghai and Frédéric Lapeyre: UN Contributions to Development Thinking and Practice, Bloomington: Indiana University Press, 2004

⁸⁰ A/RES/61/16, Strengthening of the Economic and Social Council, 9 January 2007

the AMR nor the DCF were open to an interactive and openly participatory process for NGOs or representatives from the major groups for that matter.

The AMR is now to be replaced by the HLPF, and as such its functions should be subjected to the modalities of the HLPF. According to the GA resolution on the HLPF, major groups have been granted wide participatory rights in all its proceedings. Still, some governments maintain that these functions, including the review functions of the HLPF, are not open to NGOs and major groups. There is clearly a conflict of positions in these interpretations, and these must be resolved for HLPF to function efficiently.

As is often the case, understanding resolutions is subject to interpretation, and interpretations need not always be based on facts – available or forgotten. What took place at the UN in relationship to NGOs and ECOSOC during 2013 as seen below, does not bode well.

7.4 – ECOSOC and inclusion of major groups

In the “Review of the Implementation of the General Assembly Resolution 61/16 on the Strengthening of the Economic and Social Council”, from the Office of the President of the General Assembly of May 15, 2013” which contains a chapter called “The ECOSOC We Want”, we find only cursory reference to NGOs.

During the autumn of 2013, when further debating ECOSOC and its role on sustainable development and the NGOs, member states decided (ironically) not to allow NGOs to be in the room or participate. The debates were on resolution 61/16 on ‘Strengthening of the Economic and Social Council’ and on resolution A/68/1 (20 September 2013)⁸¹. The latter discussed the integration of the three dimensions of sustainable development and the participation of NGOs and major groups and called for multistakeholder dialogues and active participation of major groups in the meetings of the Council.

There are a number of formal hurdles and difficulties that need to be understood and cleared before the principle of ‘integrating NGOs’ into ECOSOC can be made operational – if at all.

Two paragraphs from resolution A/68/1 are worth quoting in their entirety:

- 22. “The Economic and Social Council has an important role as a platform for multi-stakeholder participation and for engaging all relevant stakeholders in the work of the Council, particularly with respect to its function related to the integration of the three dimensions of sustainable development.”
- 23. “While retaining its intergovernmental nature, the Economic and Social Council shall seek to promote the active participation of major groups, non-governmental organizations, other relevant stakeholders and regional organizations in the activities of the Council and its functional and regional commissions, in accordance with the provisions of their respective rules of procedure and the provisions of General Assembly resolution 67/290 (*on establishing the HLPF, author’s add;*) insofar as it

⁸¹ A/68/1 - Review of the implementation of General Assembly resolution 61/16 on the strengthening of the Economic and Social Council

pertains to the meetings of the high-level political forum under the auspices of the Council.”

At first reading, this looks well for NGO access, but a second and more meticulous reading of the resolution and juxtaposing the content of this resolution with the Rules of Procedures for ECOSOC reveals a number of contradictions. It is as if the delegates are oblivious to the Rules of Procedure regulating ECOSOC meetings, thinking that deciding on new resolutions may stake out new modalities for NGOs and major groups. It seems obvious that a new and fresh look at the ECOSOC Rules of Procedure is necessary, (see Chapters 8.2 and 8.3 for further discussion.)

Several governments struggled to achieve clear language with meaningful contexts and references to major groups and the NGO community in A/68/1, and wanted to make sure that there was coherence between this resolution and the GA resolution on HLPF. These efforts were often met by staunch resistance from countries, mostly from the G-77 group, expressing a more conservative interpretation of what they referred to as the ECOSOC mandate and authority. Many observers noted however, that such interpretations were poorly concealed efforts to block access for NGOs and civil society to the intergovernmental system in general and the UN in particular.

Decisions made today about rules and procedures for the NGO community and its participation in intergovernmental processes should reflect an understanding of what may be viable ten or twenty years from now. Such understanding is expressed in principle in A/68/1 and the GA resolution on the HLPF. These mirror an updated and modern view of governance allowing policy development and practical implementation of these policies between governments and their peoples to be integrated. Such integration is crucial, if the outstanding issues from the MDGs are to be implemented and for the SDG implementation to carry the well-being of the world forward over the next two decades. But as a delegate conceded in a conversation in the corridors, what has been agreed to in HLPF and A/68/1 may only be regarded as aspirational for the time being, when it comes to access privileges for major groups, NGOs and civil society.

And the gravity of the situation for the NGO/major group’s community was clearly demonstrated at a meeting in the ECOSOC Chamber in May 2013.

The first meeting to take place in the newly renovated ECOSOC Chamber in May 2013 was about the integration of the three dimensions of sustainable development and the role of “NGOs and major groups”. The meeting was chaired by the President of ECOSOC, and was further run according to strict ECOSOC rules which meant: No NGOs were allowed on the ECOSOC floor, they were relegated to the back of the room to sit in the spectators’ galleries, unable to ask questions, unable to reach out to delegates, unable to be active participants. A few members of various NGOs were, however, invited by ECOSOC to make prepared panel statements at this particular ECOSOC meeting, but the ensuing discussion was only with member states including prepared statements from ‘discussants’. To top it off, the ECOSOC Bureau and Secretariat had selected the NGO panel members, including the NGO discussant

thus ignoring the principle of self organisation later expressed in paragraph 16 of the HLPF resolution. In real life, the distance between ECOSOC and NGOs and major groups could not have been made larger.⁸²

7.5 – ECOSOC, HLPF, NGOs and major groups, conflicts of interest

The UNGA resolution establishing HLPF has granted NGOs, major groups and stakeholders more far-reaching participatory rights than any other resolution adopted by the UNGA. But as any decision made by the global intergovernmental community contains a number of reservations, so does this resolution. These caveats are however, not expressed directly, but appear in such terms and phrases as for instance ‘while retaining its (the UN system) intergovernmental nature’, and as ‘appropriate’. As stated, formal ECOSOC sessions are run according to the Rules of Procedure for ECOSOC from 1992. They do not allow NGOs to participate, except in rare occasions and only according to a strict and regulatory system. Its Rules of Procedure are proof of this (see next chapter for elaboration). The HLPF has been created as a hybrid under the auspices of ECOSOC and the UNGA to create and develop, coordinate, and review policies on sustainable development and the SDGs for the UN for the next two decades –at least.

It is also well worth remembering the following: The Rio+20 outcome document stresses the importance of making ECOSOC the key body in the UN for integrating the three dimensions of sustainable development. Subsequent discussions on strengthening ECOSOC, as expressed – and discussed above -- through resolution 61/16 including the recently adopted resolution A/68/1 reiterate this. These resolutions also make tacit and explicit references to NGOs, major groups and civil society and the need to involve these actors in furthering work by the UN on sustainable development. But the caveats inscribed into these resolutions may also have the effect to outweigh benevolent willingness to include these actors. Understanding these caveats will always be subject to interpretation, by UN Secretariats and by Member States.

While ECOSOC has now been given the role as the supreme coordinator of sustainable development at the UN, HLPF has been given a role as a policy executor of the same. Are there conflicts of interests here? And if so – how may these issues affect the involvement of NGOs and major groups in sustainable development policy work at the UN?

Whereas the ECOSOC Rules of Procedure confines activities of NGOs and major groups, HLPF includes and expands the same. A juxtaposed analysis is in order, and the following is a brief overview of ECOSOC rules of procedure.

⁸² The author of this paper was one of the participants politely but firmly escorted out of the ECOSOC chamber to the spectators’ gallery, all in accordance with rules of procedure for ECOSOC meetings.

8.0 - ECOSOC and NGOs/major groups

8.1 – ECOSOC rules of procedure

Formal ECOSOC meetings do not allow NGOs or non-state actors to work and function in a participatory and transparent manner, as for instance was the case at CSD. Even the DCF adopted a more open approach to the involvement of non-state actors. The rigidity of the rules of procedure for ECOSOC sessions including their consequences on modalities make it virtually impossible to conduct an interactive ECOSOC session with NGOs, major groups and other stakeholders present.

Chapter XIII of the “Rules of Procedure of the Economic and Social Council⁸³” from 1992 delineates access for NGOs to ECOSOC. Rule 80 deals with the Committee on NGOs which awards accreditation to the UN (there are no NGO members in this Committee, only government representatives), and the rule is about work and procedural functions in ECOSOC; Rule 81 deals with representation from the NGOs at ECOSOC meetings; Rule 82 states that the Committee on NGOs may consult with NGOs “on matters within their competence”; Rule 83 further delineates how NGOs may participate in ECOSOC meetings, after having submitted an application in writing within a specific deadline, and proven that they can deal with “matters within the competence of the organisations concerning specific items already on the provisional agenda of the Council;” Rule 84 stipulates that the Committee on NGOs shall make recommendations to the Council ECOSOC) on which organisations that may be heard by the Committee and which themes NGOs are allowed to address: “Such organisations shall be entitled to make one statement on such item to the Council or the appropriate sessional committee, subject to approval of the Council or of the sessional committee concerned.”

Among other issues, it appears obvious that the Council’s cumbersome approach procedures do not allow for spontaneous interactive sessions with members of the NGO community participating. During the negotiations developing the text for the HLPF resolution, a strong faction of countries wanted the HLPF to be integrated totally within ECOSOC. Several delegates opting and negotiating for such a solution were the same as those who actively opposed the establishment of a council for sustainable development, a proposal presented and lobbied for in the run up to the Rio+20 Conference. These delegates were of the opinion and argued that ECOSOC rules might easily be waived to allow NGOs and major groups to attend and speak should HLPF meetings be held under ECOSOC rules of procedure. However, should an interactive session on any agenda item relating to sustainable development or the SDGs involving NGOs and major groups, be held strictly under the purview of ECOSOC, and chaired by its President, Rules 80 through 84 must be waived.

⁸³ E/5715/Rev.2

May then these rules be easily waived to allow for greater interaction between NGOs and ECOSOC? Rule 86 stakes out “Method of Suspension”. This reflects all Rules regulating ECOSOC, and it is worth quoting in its entirety⁸⁴:

“Any of these rules may be suspended by the Council provided that twenty-four hours notice of the proposal for the suspension has been given, which may be waived if no representative objects. Any such suspension shall be limited to a specific and stated purpose and to a period required to achieve that purpose.”

It is enough to point to the fact that it is almost inconceivable to have unanimous acceptance among the 54 ECOSOC member states to waive such rules. Besides these rules can only be waived on a case by case nature, and not for a long period of time. Should the HLPF have been integrated fully under ECOSOC, its Rules of Procedure would have had to be changed substantially to allow NGO/major group participation, which as argued would not happen – at least not easily or quickly -- if changed at all.

In addition to procedural difficulties -- and as was shown above in the 2013 May ECOSOC meeting -- no NGO person is allowed on the floor of the ECOSOC Chamber. All NGOs – or major groups - are actually relegated to the back of the room, to the spectators’ area, and they have to enter the ECOSOC spectator’s area through different elevators and different doors on different floors from where the delegates enter. In a way, access to meetings is granted, but such access does not allow access to delegates or to perform what NGOs and major groups need to do: lobby delegates. In this way, major groups will in reality have the same access to ECOSOC meetings as they have sitting somewhere else in the world looking and listening to a UN meeting being webcast. Hence ‘access’ in the intergovernmental and political context of sustainable development at the UN promoting NGO and major group participation must be given a distinct and clear contextual interpretation in modalities for the NGO and major groups community.

8.2 – NGOs, major groups and the formalities of the system

Experienced NGOs having worked the UN scene for a while, know and hold the following facts to be self-evident: that the UN is an intergovernmental system, that Member States hold the decision-making powers, and that any change must take place within the confines of the UN legal and formal framework. ‘If you do not know the system, how to work it and respect it, you will never be successful.’ This is a basic tenet in UN politics that every player understands. Improving it, even changing it to be in harmony with current political contexts must be based on this realisation.

Article 71 in the UN Charter, was a first effort by the UN to reflect the changing political realities of the mid 1940s and acknowledge the presence of organised non-government interests. As the world grew more complex, it soon became clear to the UN secretariat and members of ECOSOC that more clarity was needed vis-à-vis the NGO community. In a

⁸⁴ Ibid rule 86

detailed study from 2005, Charnovitz⁸⁵ of the George Washington Law School draws the attention to the changing nature of NGO politics in the 1950s and how it reflected on the UN. When it implemented Article 71 in 1950, the Economic and Social Council established a set of principles as minimum criteria for NGOs. It stated that the NGO “shall be of recognized standing and shall represent a substantial portion of the organized persons within the particular field in which it operates.”⁸⁶ This requirement, to a large extent, has been carried forward into the current ECOSOC credentialing rules, which were adopted in 1996. These rules state that the NGO “shall be of recognized standing within the particular field of its competence or of a representative character.”⁸⁷ These rules also state that “The organization shall have a representative structure and possess appropriate mechanisms of accountability to its members, who shall exercise effective control over its policies and actions through the exercise of voting rights or other appropriate democratic and transparent decision-making processes.”⁸⁸ The claim that an ideal NGO is a representative one, was – interestingly -- contributed to the United Nations by governments not by overreaching NGOs.⁸⁹

The 1996 revision updated ECOSOCs understanding of NGO politics to the 1990 level. But this level is soon twenty years old, and politics are changing rapidly these days. The intergovernmental world was changing throughout the 1990s, and much of this change, not the least in the world of NGO politics, received then a formal and in many cases legal recognition by the UN system. Other institutions that recognised the importance of NGOs was the Nobel Peace Committee (see page 13). As has been pointed to earlier, NGO activities in implementation and politics took on a different meaning and importance after the 1992 Rio Conference.

The existing ECOSOC regulation of NGOs mirrors an outdated view of the NGO world – which was a world where NGO representatives perhaps felt satisfied, even gratified, to be allowed to sit in on UN meetings as passive spectators and note-takers. It was enough once to allow accredited NGO people to enter the hallowed chambers of intergovernmental UN politics through separate elevators and doors into the spectators space of the Charter Bodies. The ECOSOC procedure forbidding NGO representatives access to the delegates floors reflect this reality. As does the physical architecture of the UN building itself. And unfortunately, the refurbishment and modernization of the UN has not grasped fully the changing roles of politics in this world. The old barriers of the 1940s and 1950s, well integrated in the architectural structure of the UN building, separating NGOs from delegates, still exist. But as the global NGO community is actively participating in the implementation of UN decisions⁹⁰, they also want to participate in developing and formulating policy behind these decisions. Lobby work originating in the NGO community actively contributing to UN policies and

⁸⁵ “Accountability of Nongovernmental Organizations (NGOs) in Global Governance, George Washington University Law School”; This paper was prepared for the Conference on Global Administrative Law, held at NYU Law School on 22-23 April 2005. ©Steve Charnovitz, 19 April 2005.

⁸⁶ From: Review of Consultative Arrangements with Non-Governmental Organizations, Resolution 288(X) 27 February 1950, paragraph 5.

⁸⁷ Consultative Relationship between the United Nations and Non-Governmental Organizations, Resolution 1996/31, paragraph 9.

⁸⁸ Ibid, paragraph 12

⁸⁹ Charnovitz, p 4, see note 85 above

⁹⁰ Remi Parmentier in a study from 2004 for UNEP estimates that environment NGOs implement as much as 60 to 70% of UNEP programmes annually

programmes has therefore grown in creativity, innovation, volume and quality. The modalities of the HLPF can, despite many obstacles, still reflect this

8.3 - The formal basis of NGOs at the UN, interpreted through ECOSOC

To sum up -- the legal basis for NGO presence at the United Nations under UNGA/ECOSOC is Article 71 of the UN Charter. This provision has mandated ECOSOC to develop consultative status and relationships with many NGOs.

Inspired by the massive attendance of non-governmental organisations to UN conferences in the 1990s, and to the innovative major group system, the Secretary General of the UN commissioned work to update and upgrade the formal relationship between NGOs and the UN. Much of this work was developed under the leadership Ms Gillian Sorensen⁹¹ who consulted with representatives from active NGOs at the time. The result of her work was ECOSOC Res. 1996/31⁹², adopted 25th of July 1996. It superseded and replaced the old resolution regulating relationships between NGOs and the UN, ECOSOC Resolution 1296 of 1968. The details of the currently valid participation privileges are set out in the ECOSOC resolution passed in 1996⁹³. The 1996 resolution envisaged far-reaching participatory opportunities reflecting political realities of that era, and it allowed for increasing participation by national and international NGOs within ECOSOC and its subsidiary bodies. The resolution also detailed how participation of NGOs should be at international UN conferences in the 1990s, soon twenty years ago.

The 1996/31 resolution contained a detailed approach and one might be tempted to say, recipe for interaction between the UNGA/ECOSOC, the member states and NGOs.

Two references to the 1996 ECOSOC resolution should be made as they are of high importance to NGOs and Major Groups and well worth keeping in mind when discussing the HLPF processes. The two paragraphs are:

- 16. The provisions of the present resolution shall apply to the United Nations regional commissions and their subsidiary bodies *mutatis mutandis*.
- 18. A clear distinction is drawn in the Charter of the United Nations between participation without vote in the deliberations of the Council (ECOSOC- author's addition) and the arrangements for consultation. Under Articles 69 and 70, participation is provided for only in the case of States not members of the Council, and of specialized agencies. Article 71, applying to non-governmental organizations, provides for suitable arrangements for consultation. This distinction, deliberately made in the Charter, is fundamental and the arrangements for consultation should not be such as to accord to non-governmental organizations the same rights of participation

⁹¹ With a long career working with and for the UN, her last position was as Senior Adviser at the United Nations Foundation. Since 1993, she served as Special Adviser for Public Policy for Secretary-General Boutros Boutros-Ghali, and then as Assistant Secretary General, head of the Office of External Relations for Secretary General Kofi Annan.

⁹² Consultative Relationship between the United Nations and Non-Governmental Organizations, Resolution 1996/31

⁹³ ECOSOC Res. 1996/31, 25th of July 1996 on Consultative relations between the United Nations and nongovernmental organizations

as are accorded to States not members of the Council and to the specialized agencies brought into relationship with the United Nations.

Arrangements for consultation for NGOs “ ... should not be such as to accord to non-governmental organizations the same rights of participation as are accorded to States ...” This part of the paragraph is key in order to understand the implications of “while recognising the intergovernmental nature of the UN” which is frequently used also in the UNGA resolution establishing the HLPF. Even though provisions are made in many resolutions to afford NGOs and major groups participatory privileges, such as those given NGOs and major groups in the HLPF resolution, arguments could be made by conservative governments that ECOSOC rules of procedure as a Charter Body trumps all other rules of procedure, because these rules are made explicitly to protect the intergovernmental nature of the UN. In fact, every GA resolution calling for the participation of NGOs and major groups always contains the proviso of protecting the intergovernmental nature of the UN institutions. Developing a clear set of modalities respecting this principle while enabling participation for NGOs may pre-empt arguments to keep major groups and NGOs away from UN sessions.

During the 1990s and at the beginning of the 21st Century, various modalities for participation in the General Assembly were suggested and discussed. The most innovative and far reaching report was the so-called Cardozo report⁹⁴, which unfortunately came to naught. Still, the ECOSOC resolution of 1996 remains the overarching basis upon which the non-governmental organisations -- and as such major groups -- are allowed into the UNGA/ECOSOC system.

The 1996 ECOSOC requirements on NGOs (1996/31) list the basic criteria for giving NGOs accreditation to the UN. Referring to these requirements, including a few of the main points listed above, the following can be extracted as basic criteria for NGOs to be eligible for UN ECOSOC accreditation, and as a consequence of the above, be functional in the HLPF. The NGOs shall:

- “be of recognized standing within the particular field of its competence or of a representative character;
- have a representative structure and possess appropriate mechanisms of accountability to its members;
- have members that shall exercise effective control over its policies and actions through the exercise of voting rights or other appropriate democratic and transparent decision-making processes;
- have mechanisms for appropriate accountability that needs to be institutionalized;
- integrate the fact that the legitimacy for an NGO begins with the individual who uses it as an instrument of voluntary association;”⁹⁵

⁹⁴ A/58/817, 11 June 2004, “We the peoples: civil society, the United Nations and global governance Report of the Panel of Eminent Persons on United Nations–Civil Society Relations”

⁹⁵ From ECOSOC resolution 1996/31 on NGOs

The modalities and terms of reference that were developed for the major groups and the Organising Partners during two decades of CSD, integrated all these qualifications. This paper has therefore posited that there are no conflicts of interest between these operative rules and regulations and what is found in the HLPF resolution.

In fact, during the negotiations on the HLPF resulting in resolution 67/290, some delegations made it clear that 67/290 should not apply to ECOSOC proper, but that provisions of 67/290 would take precedence over ECOSOC rules of procedure at HLPF. Hence restrictions to NGO participation in ECOSOC should not apply to the forum. Unfortunately, only a handful of delegations made these statements, and unfortunately HLPF is still in its formative stages. And as long as a new construct, the hybrid HLPF, is in its formative stage, there are reasons to be cautious and vigilant. The various caveats implanted and written in the resolution have not yet been given their final interpretations.

An often stated truism is: unless governments own intergovernmental processes, policies will never be taken seriously. Another could be: unless people feel ownership with development, little will be implemented. The HLPF process offers a unique opportunity to combine these two political realities, not the least because the HLPF, also as the possible home of the SDGs, will decide major programme, policy and process work of the UN well into the next two decades. Changing the modalities of ECOSOC is long overdue, and HLPF may well offer a first try on how this may be done. Delegates negotiating the HLPF managed in more ways than one to reflect the changing political realities of the 21st Century. What has been well begun, must now be brought forward to a successful conclusion.

9.0 – ECOSOC and the HLPF – a cumbersome relationship

9.1 - The relationship among ECOSOC, NGOs, major groups and the HLPF

Unlike most bodies in the UN system, the HLPF resolution does not provide the HLPF with a governing bureau. This may have been an oversight by some of the negotiators. But many delegates clearly expressed an unwillingness to create a new body, and their view dominated the outcome of the HLPF deliberations. And because of this omission, and because of the structure given the HLPF, process and functionality with the HLPF appear less obvious and straightforward than should have been the case with such an important institution. Some countries kept stating during the June 2013 negotiations on the HLPF resolution that HLPF was nothing more than a platform, and a platform does not require a bureau. Because of this, it may be expected that HLPF will often be subjected to ECOSOC's Bureau and its decisions. Reading the HLPF resolution, it should be understood that this does not have to be the case. But because of lack of organisational clarity, understanding the functionality of the HLPF paragraphs and HLPF's relationship to ECOSOC may influence how modalities for major groups will be developed and administered. The following will attempt to offer an interpretation and understanding of these issues to ease development and implementation of modalities for major groups.

What is clear, is that the President of ECOSOC convenes the regular, annual HLPF (paragraph 7a of the HLPF resolution) and that the President of the UNGA convenes HLPF at the level of Heads of State every four years (Paragraph 6b). But as the HLPF does not have a Bureau, does this mean that it is the Bureau of ECOSOC that prepares the ‘regular’ HLPF meetings? Paragraph 22 may seem to underpin this understanding as it states that it:

“Requests the President of the General Assembly and the President of the Economic and Social Council to coordinate with the Bureau of the Council and with the bureaux of the relevant committees of the General Assembly to organize the activities of the forum so as to benefit from the inputs and advice of the United Nations system, the major groups and other relevant stakeholders, as appropriate;”

So, the Presidents of the UNGA and ECOSOC are mandated to consult with the Bureau of ECOSOC and of relevant GA Committees in preparing the forum.

This coordination thus involves the bureaux of the relevant UNGA committees, and these definitely do not allow major groups/NGOs into their peripheries, let alone into their midst. Rules of Procedure, chapter XIII on UNGA Committees and the Establishment, Officers, Organization of Work, rule 100 states “Each Member (meaning UN member states) may be represented by one person on each Main Committee and on any other committee that may be established upon which all Members have the right to be represented. It may also assign to these committees advisers, technical advisers, experts or persons of similar status.”⁹⁶

It may theoretically be conceivable that representatives of major groups could be labelled experts or advisers to be allowed participation in one of the UN GA committees, but this is probably stretching the interpretation a bit. Unless of course, different governments appoint representatives from the NGO community to be part of their delegation. But such NGO representatives will no longer represent the wider NGO/major groups’ community participating in HLPF sessions. Consequently, the reference to the UN GA Committees in the HLPF resolution could complicate things.

Paragraph 22 of the HLPF resolution does however state that in organising the activities of the forum, the Presidents and the ECOSOC Bureau should benefit from the inputs and advice of the UN system and major groups, with the caveat – ‘as appropriate’. Bearing in mind the strong and important references to major groups throughout the HLPF resolution, including the emphasised need for coherence throughout the UN system, it would not be inappropriate to interpret “as appropriate” to mean anything other than “always”. But ‘as appropriate’ is still subject to interpretation.

Paragraph 9 of the HLPF resolution sets the formal tone of the forum:

“Also decides that all meetings convened under the auspices of the General Assembly will operate under the rules of procedure of the main committees of the Assembly, as applicable, unless otherwise provided in the present resolution, and that all meetings convened under the auspices of the Economic and Social Council will operate under

⁹⁶ See <http://www.un.org/en/ga/about/ropga/cttees.shtml> for the rules of procedures, UNGA Committees

the rules of procedure of the functional commissions of the Council, as applicable, except as otherwise provided in the present resolution.”

Paragraph 9 of the HLPF seems to weaken the procedural rules pertaining to both ECOSOC and the UNGA in this context, and what is written here clearly overrides UNGA committees as well as ECOSOC rules of procedure. But can a ‘hybrid’ override a Charter Body?

Even though Paragraph 9 at first stipulates that the HLPF meetings are to abide by rules of procedure from the UNGA committees and from ECOSOC, the paragraph ends with the following statement: “except as otherwise provided in the present resolution”. And the rules of procedure otherwise provided in the HLPF resolution state simply that (paragraph 15, HLPF): “major groups and other relevant stakeholders will be allowed: To attend all official meetings of the forum”.

Perhaps then, all is well? Still it begs a number of questions: How does this square the issue with ‘retaining the intergovernmental nature of the forum’? Non-governmental organisations are normally not allowed to negotiate, and that means intervene, and they are also often denied access to meetings and to make statements in plenary sessions. Still, this is exactly what paragraph 15 of the HLPF accords major groups and NGOs.

Perhaps governments keen to minimize the role of major groups, NGOs and stakeholders in HLPF, while playing along with the text of the resolution, may agree to have nine representatives in the room, one for each of the nine, but nothing more. However, this is not what CSD permitted, and hence such praxis would not be in compliance with paragraph 84 of the Rio+20 outcome document. As emphasized a number of times in this paper, reference to the plural major groups here does not mean that each of the nine major groups should be represented by only one person; it refers to the fact that all nine major groups do have large constituencies present at intergovernmental meetings, and such constituencies from all the nine major groups shall all have access to the HLPF sessions when they participate there. It also means that all those members from major groups that in the future will be accredited to the various HLPF sessions annually shall be allowed to participate and attend all meetings in all future HLPF sessions. This is what the reference to transparency, participation and accountability means, values that penetrate the Rio+20 Outcome Document.

9.2 – HLPF and major groups, flexible but difficult rules of procedure

Several paragraphs in the HLPF resolution express efforts to be creative and some allow for greater interaction between NGOs, major groups and the UNGA/ECOSOC system while making sure the HLPF retains the political importance of working under the auspices ECOSOC and the UNGA and at the same time respect the intergovernmental nature of HLPF.

HLPF has been labelled a hybrid platform in the UN system, and the key words in making HLPF into this hybrid are “under the auspices of”. They are found first in Paragraph 3, and subsequently repeated in Paragraphs 8 and 9 of the HLPF resolution. Paragraph 3 states:

“Also decides that the meetings of the forum will be convened under the auspices of the General Assembly and of the Economic and Social Council;”

Paragraph 8 goes on to state that certain parts of the HLPF are “under the auspices of ECOSOC” with other formal elements “under the auspices of UNGA” (Paragraph 9). This phrase is interpreted to mean that the HLPF will function partly as a subsidiary of ECOSOC, partly as a subsidiary of UNGA.

As HLPF operates under the rules of procedure of the functional commissions of ECOSOC and not ECOSOC itself it allows for both universal membership and universal participation.⁹⁷ The hybrid structure also contributed to establishing the HLPF as a “high level meeting”, allowing for Heads of State level and Ministerial level meetings to be organised. As the HLPF exists somewhere between the UNGA and ECOSOC and has ‘subsidiarity to both’ it will probably be reporting directly to both. It would thus not make the HLPF into an ordinary ‘subsidiary body’ of ECOSOC on par with the other ECOSOC fora, but its hybrid format has created a form of ‘light subsidiarity’ to ECOSOC.

Because of the ‘light subsidiarity’ the HLPF would not be integrated into the rigid structure of ECOSOC, subjecting major groups including NGOs to the formalistic procedures of that Council, (see above, Chapters 7 and 8) and it would also not subject the rules of procedure of HLPF to those regulating the UNGA system. Paragraph 9 of the HLPF resolution is key to understanding this, as it utilizes formal elements of the UNGA and ECOSOC to establish the position of HLPF. In fact, it may appear as if HLPF is formally allowed to supersede the other two bodies (UNGA and ECOSOC) with the following words: “except otherwise provided in the present resolution”. Conservative governments have however informally stated that such an interpretation is at best a tenuous one referring to the fact that ECOSOC as a Charter Body is above HLPF and subjects HLPF to ECOSOC rules of procedure, no matter what is stated in the HLPF resolution.

Another element that also seems to have caused confusion is the principle of ‘universality’ which is often referred to in relationship to HLPF. The resolution states clearly already in paragraph 2, that the UNGA decides on the character of “the high level political forum” (the resolution always refers to the HLPF in lower case letters), and elaborates on its mandate, stating it has to be “consistent with its (HLPF’s) universal intergovernmental character.” To some, this seems to undermine the responsibility the UN has to continue to commit to the principle of eradicating poverty. To others, the principle of universality and the fact that the SDGs are global in their character, brings the United Nations back to its original mandate –

⁹⁷ Interpreting and understating the formalities of the HLPF is no easy matter, and I have been to some extent relying on informal advice from the Office of Legal Advice, OLA, to understand these complexities, as presented here. A subsidiary body of ECOSOC, as CSD was, reported to the UNGA through ECOSOC, giving ECOSOC the opportunity to alter the final report. It has been implicitly understood that the HLPF should report directly to the UNGA, and not through ECOSOC, adding to its hybrid high level position. This may however, still be subject to interpretation by Member States.

that of being a universal organization with agendas that are applicable to all its Member States.⁹⁸ These differing views are also found in the global NGO community.

9.3 - HLPF: the institutional structure, a challenge to major

The purpose of the detailed analysis presented in this paper is to understand the structure and the agenda of the HLPF. Understanding this is important because major groups and other stakeholders shall work within this structure, with the hope of benefiting from the work they perform with HLPF to promote the well-being of their constituencies and to contribute to give sustainable development global credibility. All stakeholders would ultimately translate decisions made at the HLPF into implementable programmes at country level. And as HLPF will most likely become the home for the SDGs and the SDGs are universal in nature with applicability to every country in the world, making sense out of sustainable development policies through intergovernmental process in HLPF will become a crucial issue for major groups at all levels – national, regional and global.

The institutional setup and working agenda of the HLPF has not yet been given a clear profile. In addition to the many institutional challenges, a close reading of the resolution also reveal a heavy agenda, with many tasks. Reading through the HLPF carefully, gives a clear impression that major groups and NGOs will be involved in all these agenda points. As such, it is obvious that the UN system, the member states and major groups/NGOs must be aware of these issues in order for them to be part of the real future of HLPF.

To repeat, the institutional structure of HLPF looks like this – based on a synthesis from the ‘institutional paragraphs’ of the HLPF elaborated in detail above:

The regular HLPF is convened by the President of ECOSOC, and every four years by the President of the UNGA (paragraphs 3, 6 and 7). The President of the UNGA and of ECOSOC shall coordinate with the Bureau of ECOSOC, the bureaux of the UNGA committees (paragraph 22), the Bretton Woods institutions, the World Trade Organisation and UN organisations and ask them for input (paragraphs 17 and 19) and benefit from and integrate into the HLPF the regional preparatory processes as well as their outcomes (paragraphs 7 and 13), the work of the Development Cooperation Forum (DCF) (paragraph 7 and paragraph 20) and replace the AMR (paragraph 7).

A close reading of the HLPF document will also reveal a formidable agenda. If we add up all referred agenda points, we arrive at 25 – or 29 if we allow each of the five UN regions to come in with only one agenda item. To this agenda will be added all the SDGs once they have been agreed to. (See ANNEX VIII for a detailed overview of the agenda points.)

⁹⁸ For further discussion on the principles of universality, see the well argued paper “The Role and Place of the High-Level Political Forum in Strengthening the Global Institutional Framework for Sustainable Development” for UNDESA by Steven Bernstein, Associate Chair and Graduate Director, Dept. of Political Science, University of Toronto, Canada <http://sustainabledevelopment.un.org/index.php?page=view&type=111&nr=2331&menu=35>

There are also other detailed and defined tasks to be performed by the HLPF, all found in the paragraphs of the resolution. Paragraph 8 asks the HLPF to develop and carry out a detailed review process; paragraph 20 asks that the HLPF establish and organise a substructure to deal with science based and evidence based decision-making, develop a Global Sustainable Development Report and contribute to capacity building and data collection. Another diffuse programme area is found in paragraph 21 which asks the HLPF to engage specifically in the ten year framework of programme on sustainable consumption and production (SCP). The reference is however rather general. It states simply that (Paragraph 21):

“Also decides that the forum can provide recommendations to the board of the 10-year framework of programmes for sustainable consumption and production, as well as to the United Nations Environment Programme, as the secretariat of the 10-year framework, taking into account their reports;”

The SCP issue has always been a great concern to major groups and NGOs, and the structure of this particular paragraph may leave a lot to be desired for major groups. The SCP issue has received detailed instructions in resolution 67/203 of December 21, 2012 called “Implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the outcomes of the World Summit on Sustainable Development and of the United Nations Conference on Sustainable Development” This is further elaborated in paragraph 5 of this resolution.

This resolution does not however give any mandate to HLPF to work on SCP issues as the final negotiations on establishing HLPF had not even started in December 2012. But this resolution identifies ECOSOC as a body to receive reports on SCP, which unfortunately is also repeated in last year’s resolution 68/210. This may be yet another area where HLPF is given a role, but which is undermined by earlier decisions which overrides the role of HLPF. And the problem may be exacerbated by the fact that it is ECOSOC which has been given the mandate to deal with SCP. It appears as if ECOSOC has formally been given the final decisions over SCP issues, with the ensuing difficulties of including NGOs and members of major groups in the ECOSOC - SCP deliberations. Unless of course, UNEPs UN Environment Assembly will arrive at a challenging decisions leaving out SCP issues from HLPF.

This paper has also dealt in some detail with the review mechanisms and the Scientific Advisory Board. The HLPF also mandates the development of annual Global Sustainable Development Reports. These three areas (reviews, Global Sustainable Development Reports and SCP) are prioritised working areas for many of the major groups, and they should be included in all these agenda points. When it comes to the Global Sustainable Development Reports, HLPF may take some cognizance from the way UNEP is developing and writing its GEO reports.

9.4 - Two proposals: collaboration with major groups and strengthening HLPF

It is obvious that the HLPF needs a designated and well resourced secretariat to perform all the above mentioned tasks. If not just for the size of its work, then for the simple fact that sustainable development has been heralded as one of the most important agendas of the world. But paragraph 23 of the HLPF gives the issue of a secretariat only a cursory reference. Whereas the UNGA resolution establishing the CSD gave the future secretariat of the CSD a specific and detailed mandate⁹⁹, the HLPF resolution paragraph 23 simply states that the UNGA

“*Decides* that the forum will be supported by the Department of Economic and Social Affairs of the Secretariat in close cooperation with all relevant entities of the United Nations system, including funds and programmes, multilateral financial and trade institutions, the secretariats of the three Rio conventions and other relevant treaty bodies and international organizations within their respective mandates;”

No SDG and no policy on sustainable development will be implemented unless people are engaged. Linking the grass roots of the world to the UN and subsequently engaging them, is orchestrated through the NGO community. As the 193 Member States of the UN commit to integrating the SDGs in their national plans, thousands of NGOs will be seeking to work on sustainable development issues. The engagement will take place at all levels – local, national, regional and global. The engagement will be multidimensional: policy development and analysis, implementation of programmes and projects, reviews and upgrades of targets and indicators, searching for emerging issues. Serving these organisations, as well as harnessing and reaping the benefits of their engagement will demand a well integrated and resourced secretariat. It is imperative that the present UNDESA/DSD must be upgraded with resources, its autonomy buttressed, its finances bolstered.

HLPF is a hybrid construct but its real working profile has not yet been launched. The ECOSOC President will have a large responsibility in preparing and convening HLPF, but the President including Member States may well find that institutional instruments need to be added to the existing system to make it operational. As pointed to above, several independent observers and even member states have pointed to the lack of a bureau for HLPF as a major institutional weakness, making it less efficient and more cumbersome to handle.

What is perceived as an institutional weakness may be addressed again by the UNGA in a few years as provided by paragraph 29 of the HLPF : “*Decides* to review the format and the organizational aspects of the forum at its seventy-third session, unless otherwise decided;”

The caption ‘unless otherwise decided’ may allow for an interim solution to strengthen HLPF to be implemented earlier. The Development Cooperation Forum (DCF) is referenced in the HLPF resolution (paragraphs 7 and 20) and the HLPF needs to take into account

⁹⁹ See ECOSOC resolution E/1993/207, on the Establishment of the Commission on Sustainable Development, 12 February 1993 and UNGA resolution A/RES/47/191 on Institutional arrangements to follow up the United Nations Conference on Environment and Development, 29 January 1993

developments in DCF. Mandated by resolution 61/16 the DCF is part of ECOSOC. What is interesting is that the DCF had an Advisory Board to help run its business. Could this be used as a precedent reference with relevance for the HLPF? Perhaps an Advisory Board for the HLPF, being of a less formal character than a Bureau, could be established already during 2014? Adding an Advisory Board to the HLPF as a temporary addition would not necessarily make the HLPF into a 'body'. Its performance could then be reviewed and if successful, the idea to establish a Bureau for the HLPF could be proposed for the HLPF revision at the 73rd General Assembly. If an Advisory Board could be established, would it be inconceivable to have representatives as observers from the major groups on that Advisory Board?

9.5 – Additional stakeholders or keeping the same major groups

Chapter 1 and 2, dealt in detail with certain aspects of the NGO and major group system, including some of its history and theory. The debates on these issues are unfortunately often rife with misunderstandings and faulty facts, as has been demonstrated a number of times during the MDG¹⁰⁰/SDG debate or the so-called post 2015 development discourse. The issues seem centred around the number nine; some organisations seem to feel forced to squeeze into one of the nine major groups whereas others simply perceive the nine as a way of excluding a number of thematic organisations so that the nine can function as gate-keepers. This paper posited earlier that a major purpose of the nine major groups was to function as an instrument through which large groups of NGOs can access the UN. When the concept of the nine was agreed upon in 1992, they were meant to be generic and thus involve all groupings of NGOs with an interest in sustainable development.

References have been made to other parts of the UN system involving different NGO categories, and referencing these categories have been used to strengthen the criticism levelled against the nine major groups ostensibly showing that there are in fact other groupings that should be allowed to participate on the sustainable development arena. SAICM and The Committee on World Food Security (CFS) are two such systems often referred to.

Before dealing with these two institutions, the following is worth thinking about: single issue institutions are more inclined to accept NGOs, major groups and civil society. It is easier for expert groups and the NGO community to interact with the substantive and thematic areas of single issue organisations. And since specialised expert groups, which many single issue NGOs are, can provide government negotiator with leading edge research results and incisive analysis of its relevance, delegates are more prone to integrate such 'expert' groups into the inner, formal sanctum of the intergovernmental system. It follows that delegates are then more inclined to design formal rules of procedure catering to this need. On the other hand, the rigidity of formal procedures, and political interests expressed openly or implicitly by Member States to keep these rules rigid, may lead to the exclusion of NGOs where their input would be highly valued.

¹⁰⁰ MDG – Millennium Development Goals; the MDG/SDG debate is about the so called Post 2015 development agenda

SAICM is a policy framework to promote chemical safety around the world (see Box 3). SAICM is reputed to have a highly efficient and competent network of NGOs allowed to interact with delegates at a very high level. The same is the case with CFS. CFS also has a number of NGO groups that seem to differ in designation from those of the nine major groups, for instance such as ‘fisher folks’.

These two examples are interesting for a number of reasons. Part of their efficiency in terms of policy impact in the UN system is because they are single issue NGOs; the SAICM group deals with chemicals, and CFS deals with one or another form for agriculture or food issues. CSD before and HLPF now will have multi-issue agendas and will over the years be unable to engender the kind of regularity in participation that all single issue systems acquire. The climate convention, biodiversity convention, CITES¹⁰¹ etc are all examples of “single-issue” organisations with a regular attendance of the ‘same’ organisations year after year. CFS is also allowed to experiment with non-traditional non-state actors as it does not report to the UNGA/ECOSOC system but to FAO, a specialised agency of the UN.

Unlike single issue bodies, CSD was never visited by the same organisations year after year. The major group participation differed according to the thematic agendas. When climate issues were on the agenda, the participating organisations were those working on climate issues; when CSD dealt with water and sanitation, the major groups represented were organisations dealing with and working on sanitation and water issues. When CSD dealt with food and agriculture, the majority came from the CFS constituency and so on. Those that remained the same, were the Organising Partners, but their job was to facilitate the thematic organisations, help build procedural capacity etc. and make sure that the various NGO groupings or major group constituencies could access the CSD system.

Paragraph 43 of the Rio+20 outcome document refers to a few groups that may not implicitly be part of the major group system; “local communities, volunteer groups and foundations, migrants and families as well as older persons and persons with disabilities.”

The HLPF resolution in paragraph 16 refers more or less to the same groups. Paragraph 43 however concludes with the following:

“ ... In this regard, we agree to work more closely with the major groups and other stakeholders and encourage their active participation, as appropriate, in processes that contribute to decision-making, planning and implementation of policies and programmes for sustainable development at all levels.”

Paragraph 16 of the HLPF concludes with “... for participation in the high-level political forum and for actions derived from that participation at the global, regional and national levels, in a way that ensures effective, broad and balanced participation by region and by type of organization;”

¹⁰¹ CITES - the Convention on International Trade in Endangered Species of Wild Fauna and Flora, also known as the Washington Convention

Both of these documents -- (the Rio+20 Outcome Document and the HLPF resolution) -- emphasise the pre-eminence of the major group system over a fragmented stakeholder system and reiterate that the authorities will continue to work with the major groups. However, it is important to make sure that regional views are heard and the various thematic types of organisations are heard. This should have the following consequences for HLPF meetings in the future: when the key agenda point is, for example, sustainable concerns related to disaster reduction, it will be imperative for the Organising Partners of the nine major groups to ensure that their participating members have expertise with disaster reduction experience; if climate and energy issues come up, those with that thematic expertise need to participate representing their major group, water and ocean pollution, those experts and so on. These are the relevant stakeholders that these documents are referring to.

The NGO major group invited all Rio+20 accredited NGOs to attend and organise themselves in thematic cluster groups in the run up to the Rio+20 Conference. The response was not overwhelming. Between fifteen and twenty thematic cluster groups self-organized to be able to create a critical mass of expert knowledge on various themes. These groups were mainly from the NGO major group, and performed extremely well when lobbying government delegates within their areas of expert competence. These groups also wrote the expert statements for the major groups in Rio+20 on the various themes when such an occasion occurred. The Organising Partners of the major groups organised the modalities and process through which these thematic presentations were made.

By 2015, we are looking at the prospect of having an agreed global sustainable development agenda, called the Sustainable Development Goals. These goals will influence the national plans in all countries in the world, North and South, East and West. By that time, we need organisations with expert knowledge on the various SDGs, on review issues, on local and national implementation of the SDGs and of expert knowledge on monitoring and process work in intergovernmental organisations. As SDGs with targets and indicators will undoubtedly be clustered thematically, revisiting and further developing the thematic clusters for each of the nine major groups might be an idea worth pursuing.

It took the non-government organisations nearly ten years of hard process work at CSD to have 'the nine' accepted. It is important to see that there is an absolute maximum number to how many speaking slots Member States will allow the non-governmental or non-state actors to possess. The important question to ask therefore is – if new groups should be added, what kind of expert knowledge will these new groups provide and how will these groups further contribute to enhance sustainable development issues? What will the procedural and formal consequences be of adding more groups? Conversely, reducing the nine major groups to three or five, as some have proposed, will definitely reduce the diversity of voices of the non-governmental community. And that is counterproductive. The discussion should not evolve around what specific generic group must be added to make the nine major groups look better. It should importantly focus on how the major groups can function more effectively to engage

the wealth of NGOs including representatives of civil society actors which seem to be proliferating in all countries in the world as well as their interest in sustainable development.

10.0 - Conclusion

The Rio+20 outcome document called the “Future We Want” calls for an integration of civil society, major groups and relevant stakeholders¹⁰² in all future United Nations processes relating to sustainable development. This has already manifested itself in the HLPF resolution and in the ongoing process surrounding the Open Working Groups (OWG) on the Sustainable Development Goals (the SDGs) taking place at the UN at present and leading up to a future agreement on a set number of goals to substitute for the Millennium Development Goals in 2015.

Parallel to the ongoing OWG process, UN Member States with relevant UN secretariats have conducted and concluded a number of important initiatives on modalities with relevance also to the future SDG negotiations. The United Nations General Assembly decided on modalities for the high level political forum (HLPF) in July 2013¹⁰³, and on strengthening the Economic and Social Council in a UNGA resolution¹⁰⁴ in September 2013. These two recent resolutions both emphasised the necessity of involving major groups and NGOs, while recognising and respecting the intergovernmental nature of UN processes.

Modalities dictate the degree of engagement of stakeholders in any intergovernmental process. The UN has always found mechanisms to expand and harmonise its procedural system with current political realities while ensuring the integrity of the intergovernmental nature of the UN. This paper has traced some of these changes and improvements as they relate to sustainable development processes.

Examples have shown that the UN has accumulated through its history a rich repository of constructions to allow for flexible engagement of NGOs into global policies while respecting the spirit and nature of the UN Charter. One such mechanism was the Arria formula used to create consultations between the UN Security Council and NGOs. The recent UN GA resolution on the HLPF is another such construction.

UN Summit Conferences have increasingly allowed for the active participation of stakeholders from diverse sectors of non-state actors. The earlier UN General Assembly Special Sessions (UNGASS), utilized, inter alia, during the Rio plus 5 (1997) and the World Summit on Sustainable Development, (WSSD, 2002) are examples of processes allowing

¹⁰² Paragraph 43 from A/RES/66/288, The future we want

¹⁰³ A/67/L.72 Format and organizational aspects of the high-level political forum on sustainable development

¹⁰⁴ A/68/L.2 Review of the implementation of General Assembly resolution 61/16 on the strengthening of the Economic and Social Council

non-state actors significant participation. These UNGASS processes utilised the modalities that at the time were employed by the Commission on Sustainable Development (CSD). The Rio+20 Process is a recent example of how flexibly a procedural system can be structured -- and with more than 100 state leaders having participated, the Rio+20 Process must be seen as a crowning example of an intergovernmental summit process.

The HLPF will most probably be an active forum within the UN system for the next twenty years and influence heavily the modus operandi of sustainable development. Astute observers have commented and said that it is a body flawed by a number of institutional weaknesses. At the same time, the HLPF opens new opportunities for engaging people in multilateral intergovernmental process on sustainable development. In that way, and with a few innovative organisational decisions infused into the system, the HLPF holds a promise to become stronger, especially if it is empowered to handle the entire portfolio of the Sustainable Development Goals and the post 2015 sustainable development agenda. Having reviewed a large segment of the history of interactive systems between major groups, non-governmental organisations, civil society and relevant stakeholders, it is safe to say that no other UN resolution has granted so far-reaching rights and privileges to major groups, NGOs, civil society and other stakeholders than the resolution establishing the HLPF. This is in fact a true tribute to good governance systems and sustainable development. As such, it embodies paragraph 13 of the Rio+20 outcome document, “the Future We Want”, which states:

“We recognize that opportunities for people to influence their lives and future, participate in decision-making and voice their concerns are fundamental for sustainable development. We underscore that sustainable development requires concrete and urgent action. It can only be achieved with a broad alliance of people, governments, civil society and the private sector, all working together to secure the future we want for present and future generations.”

ANNEXES

ANNEX I - NGOs, civil society, major groups, non-state actors, the NGO/civil society nexus

Understanding that there is a difference between NGOs and civil society is imperative to many of the arguments in this paper. These differences are further discussed throughout the paper, and given a deeper analysis in Chapter 2. The context will often help the reader to understand what is meant throughout this paper when the different terms are used: NGOs, major groups, members of civil society etc. However, a further explanation may be warranted.

The UN system itself is not consistent in its use of the terms. Official UN outcome documents often uses civil society and NGOs interchangeably, and at times in the same sentence as were they synonyms. Summons to meetings may also use “NGOs and major groups”, sometimes these words are capitalized, sometimes not. The Rio+20 Outcome Document is point in case, as are many UN resolutions agreed by consensus. And as UN documents will have to reflect statements and opinions of their member states, and member states often confuse these idioms as well, the imprecise use will continue. The problem with this is – as pointed out in Chapter 2 of this paper – that civil society organisations do not have any formal recognition by the UN, whereas NGOs do.

The struggle for participation and access to allow people to participate in decision making processes is also the struggle to establish and organise civil society into more than just “Vox Populi” – ‘the voice of the people’, a historical struggle that can be traced all the way back to the Greek city states. No governance process functions without an institution and organisations are institutions. The right to organise is a corner stone for civil society.

Civil society is often viewed as the antidote to administrative systems and bureaucracies. The truth of the matter is however that for civil society to be effective, institutions are needed, both of civil society and with which civil society can work. How else can issues such as accountability, rule bound behaviour and transparent processes be tested?

With the growth of participatory democracy during the 20th Century, organisations allowing people actively to participate and fight for key issues proliferated. This paper points to the growth of organisations parallel to the UN. The post world war era brought many new forms of government cooperation, and political phenomena such as “universality” and “intergovernmentalism” became household words. The UN, with its many coordinated functions, was a novelty when it was created in 1945 and was the first where ‘universality’ was widely applied. “Intergovernmentalism” found its usability according to many, with the formation of the European Union. The concept “intergovernmental systems” has extended its usability to other arenas as well. Organisations such as the UN or the African Union, or The Association of South East Asian Nations (ASEAN) are today known as intergovernmental

systems. Civil society has struggled to cope with all these challenges, and developed systems to respond to these systems in organised fashions, largely through ‘non-governmental organisations’.

Of late, a new term has been introduced by researchers and practitioners: “non-state actors”. An NGO is obviously a non-state actor as are civil society organisations. The problem with the term “non-state actor” is however, that it also refers to organizations that involves governments, but not as individual states. As such, the Organisation for Economic Co-Operation and Development (OECD), which is an organization with governments as member can also be labelled a non-state actor.

This paper will not pretend to solve this conundrum, and not offer a final, precise definition of the concept. Most theories will however accept that society consists of three political entities: I)-Government and authorities; II)-The market; III)-Civil society. It follows that: I)-Governments and authorities consist of: members of governments, civil servants, parliamentarians, municipalities, their administrators, appointed and elected members; II)-The market: private sector, industries, banks, finance institutions; III)-Civil society: voluntary organisations, community based organisations, non-profit non-governmental organisations.

This understanding is the basis for the following statement in this paper: “All civil society organisations are NGOs, but not all NGOs are civil society organisations”. CBOs – Community Based organisations and CSOs – Civil Society Organisations are all of civil society; major groups are all NGOs, as they also include organisations that are not of civil society, such as those working with science groups, business and industry, local authorities etc.

Various designations are used throughout this paper, and the variations point to different contexts; NGOs, usually capitalized as an acronym refer to organisations outside of government elements as defined in the ECOSOC context.; the NGO/civil society nexus draws into the context also civil society at all levels; NGO/major groups – or the NGO/major groups community refer to the non government elements of the global society, including the more defined group called “major groups” as defined by Agenda 21; non-state actors, is used the way it is described here in this box and if the NGO concept is added, that group is obviously emphasised. The paper also refers a number of times to major groups alone, and when that is the case the original definition applies: major groups as defined by Agenda 21.

ANNEX II – fourteen Rio+20 Processes

- The green economy process, § 56 -71
- The high level forum on SD, § 86
- Intergenerational solidarity, the ombudsperson for future generations, § 86
- Strengthening UNEP, § 88
- Integration of the three dimensions of SD, § 93
- Outcome of Delivering as One Process, strengthening operational activities, § 95
- Sustainable Energy for All (SG initiative), § 129
- GA process on the maritime jurisdiction beyond national boundaries, conservation and resource use of marine resources, §161, 162
- Challenges facing small island developing states, § 180
- 10-Year Programme on Sustainable Consumption and Production, § 226
- The Sustainable development goals – through to 2015 § 248,249
- Assessing financing needs for sustainable development, § 255, 257
- Clean environmentally friendly easily adaptable and usable technologies, § 273
- The registry of commitments, § 283

ANNEX III - Broadly outlined the organizational choreography or modalities directing how major groups, would work during the CSD sessions - 2004 - 2010, was as follows:

The participatory rights from CSD are now inscribed into the HLPF mandate and procedure which is no less than a formidable precedent having been set at this high level of a global intergovernmental context. It is fair to state that such a decision reflects in a timely manner the nature of global politics. It also reflects to a large degree considerable foresight on account of the involved negotiators developing the HLPF resolution. Integrating major groups, civil society and relevant stakeholders to such a high degree will in the long run greatly contribute to the potential relevance of the HLPF and add to its legitimacy.

First year, the Review Year:

- Developing the Secretary General's report for the two year themes – governments and civil society were all invited to contribute to the content; governments were invited to send, on a voluntary basis, a country report on the cluster issues.
- The 9 major groups were invited to compose an 8000-review document on the CSD theme, which was subsequently translated into all official UN languages; the production of these documents took place between July/August and December 10th each year. It was also explicitly stated by the CSD secretariat with a basis in

modalities and procedure agreed on at CSD 11 that it was imperative that this document did not deal with policy issues (see below); the final major group documents were sent the CSD delegations as part of the official background documents.

- Each of the five UN Regional Economic Commissions organised regional meetings, a so-called RIMs, Regional Implementation Meetings, to discuss the cluster themes from a regional perspective. These meetings were supposed to come up with a non-negotiated statement; civil society through their major groups were all invited to participate; it was further recommended that the modalities used to involve the major groups should follow the practice set at CSD proper in New York.
- Towards the end of the first year of the two-year CSD cycle, governments and civil society participated in the two-week review session held in April/May at UN headquarters in New York to finalise the identification of success stories and obstacles to progress; these meetings also have a set choreography

Second year, the Policy Year:

- Based on the outcome of the Review Year, the Secretary General issued reports on the themes and policy document were developed by each of the 9 major groups. The major group policy statements, based on the outcome of the Review Year, could not exceed 1000 words, and were translated into all UN languages and distributed to all governments as part of the background documents.
- The second year of the CSD cycle dealt with policy outcomes, through two sessions: The first, the IPM, the Intergovernmental Preparatory Meeting, was held at the end of February, beginning of March, and was a week-long session which prepared the negotiating text for what was called 'CSD Proper' in May that same year. CSD 'proper' negotiated the final CSD outcome.
- The primary function of the IPM was to prepare the negotiating text for the CSD in May: the IPM agreed on the number of issue points raised (always to be held within the mandate of the CSD and the issue clusters including the overarching themes, a point not often understood or appreciated, be that by civil society or governments.)
- The IPM further agreed on any number of text-proposals supporting these agenda points, as well as introductory remarks and analysis – if any such remarks were needed. This text, which also often included brackets, should in its entirety have been based on the previous review year's work.
- CSD proper, the final two-week meeting in May at the UN headquarters in New York was finally mandated to hammer out policy directives on the two-year process for the success of the themes dealt with.

The CSD cycles presented governments and major groups with a most poignant set of sustainability issues to work with and with this an opportunity to raise global awareness and renew interest in some of the basic issues that related to sustainable development. The official modalities focussed on a number of issues, and report writing and preparation of background papers became important to major groups. Even though the importance of

national reporting was dramatically reduced in substance and quantity, by moving the deadline for submission from late November to mid-August, making it virtually impossible for most countries to organise national reporting with the involvement of national NGOs, the criteria for this reporting became a directive for how the major groups would organise and write their thematic background papers. The outcome document from CSD 11 stated that:

“The Commission on Sustainable Development, at its eleventh session, encourage countries to provide national reports, on a voluntary basis, in particular to the Commission’s review sessions. In doing so, the Commission underscored that the reporting should:

- reflect the overall progress in all three dimensions of sustainable development, focussing on the thematic cluster of issues for the cycle;
- focus on concrete progress in implementation;
- include lessons learned and best practices;
- identify actions taken
- highlight relevant trends, constraints, challenges and emerging issues
- incorporate, where relevant, the effective use of indicators for sustainable development.”¹⁰⁵

The CSD chair’s report also followed a few basic elements from the rules of procedure, which also directed the way major groups acted on their policy input. These were:

- an improved understanding of priority concerns in the implementation of the selected thematic cluster of issues and pave the way for an effective policy discussion;
- strengthening implementation in these areas;
- to address the constraints and obstacles in the process of implementation identified during the Review Year;
- mobilise further action;
- address new challenges and opportunities, and share lessons learned and best practice;

In summary, the guidelines involved all actors, governments, intergovernmental institutions and major groups. This involvement was expressed in the following manner by the CSD guidelines:

“The Review Sessions and the Policy Sessions should mobilise further action by all implementation actors to overcome obstacles and constraints in the implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the Johannesburg Plan of Implementation, and address new challenges and opportunities, and share lessons learned and best practice”.

¹⁰⁵ Excerpts from guidelines, CSD secretariat, from the UN DESA/ CSD website 2003 - 2011

ANNEX IV - Organizing Partners

<http://sustainabledevelopment.un.org/orgpartners.html>

from UN CSD website, sustainable development knowledge platform

Overview

To fulfil the General Assembly and CSD's mandates regarding multi-stakeholder engagement, the CSD secretariat works with and supports the major groups to facilitate their inputs into the UN CSD process in an efficient, participatory and transparent way. Working arrangements are in continuous evolution and often serve as a model to other UN led processes.

The nine major groups, identified in Agenda 21 in 1992, are called major group sectors and include:

- Women
- Children and Youth
- Indigenous Peoples
- Non-governmental organizations (NGOs)
- Local Authorities
- Workers and Trade Unions
- Business and Industry
- Scientific and technological Community
- Farmers

The private sector falls under the umbrella of Business and Industry. Each sector is treated equally in the CSD intergovernmental process. No one-size-fits all and each sector has a distinct process to select Organizing Partners that act as liaison with the Secretariat and their sector during a CSD cycle.

Criteria for Eligibility, Roles and Responsibilities

The preparation of multi-stakeholder participation within the CSD is itself a multi-stakeholder process. Key major groups' networks are invited by the CSD Bureau to form a facilitating group called "organizing partners", which coordinates the preparations and assists the Secretariat in generating and guiding the engagement of stakeholders for each major group sector. The Secretariat chairs the facilitating group and supports its work throughout the preparatory process and a given CSD session.

The organizations serving as Organizing Partners (often up to 5 organisations per sector) are facilitators working through and with large global constituencies. They are accountable to their constituents, to the CSD Bureau and to the CSD secretariat, although they do not represent them.

The criteria for eligibility include organisations:

- with expert knowledge and competency on the CSD cycle's cluster of issues;

- that have demonstrated over time their competence and commitment to work in collaboration with the CSD Bureau and the Secretariat;
- that are recognized and well respected in their communities and by other organizations in the same sector, and have contacts reaching into different branches of their respective sectors;
- that have a global or regional geographical scope and membership;
- that have representative structures and appropriate mechanisms of accountability to members;
- that have a solid understanding of intergovernmental decision-making processes, and in particular of the CSD process;
- that have a knowledge of respective regional players and regional groupings;
- that have a commitment to remain engaged throughout the two-year CSD implementation cycle;
- that have the organizational means and time to perform the required tasks un-paid and responsibilities, including participation in CSD meetings in New York throughout the two-year CSD implementation cycle;
- that have members who shall exercise effective control over its policies and actions through the exercise of voting rights or other appropriate democratic and transparent decision-making processes;
- that are preferably in consultative status with ECOSOC or are on the CSD Roster;

The major groups organizing partners' main responsibilities include:

- Consult with networks to prepare written inputs in the form of discussion papers and priorities for action papers addressing the specific themes of each CSD implementation cycle-including the cross-sectoral themes-that reflect their group's views on progress made, outline obstacles and constraints to implementation, and identify new challenges to be met by major groups to expedite implementation.
- Organize manage and disseminate data and information on major groups and the given CSD cycle
- Consult with networks to identify participants to serve on their sector's delegation
- Provide and develop logistics and process understanding so the major groups will be able to maximise their presence at CSD in accordance with the UN and CSD engagement practices and procedures
- Provide guidance and find expertise to develop policy positions representing the best from the major groups' constituencies relevant to the agenda points of the CSD implementation cycle/programme of work
- Coordinate and facilitate the participation of representatives of their respective sector throughout the CSD sessions, working in collaboration with other major groups' sectors' representatives present at the RIMs, the IPM and the CSD sessions
- Have proper and valued knowledge of the UN in general and the CSD process in particular to provide the major group constituency with background information and/or capacity building to understand and function within the CSD two year cycle.

Milestones in the evolution of self-organization mechanisms and collaboration with the CSD Secretariat and Bureau

International Facilitating Committee [IFC]: established by NGOs and other stakeholder from civil society in the lead-up to UNCED to provide non-political organizational support, including organizing the Global Forum. It dissolved after Rio.

International Non-Governmental Organizations Forum [INGOF]: also established by NGOs, creating an international "space" to develop common political positions (not including industry). It dissolved in 1995.

CSD-1: A facilitation mechanism was needed to assist NGOs and major groups in maximising their participation. NGO working groups from Rio, -which had already formed again - convened to discuss how NGOs might best organize themselves. The UN- Non Governmental Liaison Service (UN-NGLS) facilitated a series of follow-up regional telephone conferences and a meeting for NGOs attending the Down to Earth conference in Copenhagen (December 1993)

CSD-2: The results of these discussions were brought to CSD-2 in 1994, where NGOs and major groups' representatives established the NGO Steering Committee to the UN Commission on Sustainable Development. ^{1/} The CSD NGO Steering Committee (a multi-major groups' structure) had a Southern and Northern Co-Chairs and two representatives from each of the identified regional caucuses, issue-based caucuses and major groups sectors. 1996: revived interest in the intergovernmental sustainability process leading up to Rio +5; increased number of major groups participating in the Preparatory Committee of the 19th Special Session of the General Assembly (Earth Summit +5) in September 1997

UN General Assembly (GA) decides to include stakeholder dialogue as part of preparations for the 1997 Earth Summit + 5, inspired by the UN Habitat Conference in Istanbul 1996, and by various stakeholders active at CSD.

CSD Secretariat convenes a meeting with major groups in Geneva, "and agreement was reached to proceed with stakeholder dialogue sessions at CSD-5, which served as the preparatory meeting for Earth Summit + 5 review." ^{2/}

Earth Summit + 5: stipulated that the CSD should conduct "a high-level policy debate aimed at consensus-building on sustainable development."^{3/} As an integral part of that effort, the CSD should strengthen its interaction with representatives of major groups, including through greater and better use of focused dialogue sessions, and round tables.

CSD-6 through CSD-10: To support the coordination and preparation for the multi-stakeholder dialogue segments, the CSD secretariat broadens its interfacing beyond the CSD NGO Steering Committee and opens to a greater multi-sectoral coordinating mechanism (the early stages of the Organizing Partners) to respond to the new mandate and the focus of each multi-stakeholder dialogue segments. The content of the multi-stakeholder dialogues was

determined in consultation with the CSD Bureau and the Steering Committee/organizing partners, facilitated by the CSD secretariat. The organizing partners engaged in consultations with their major group to draft a 'dialogue starter paper' (a position paper) and determine who would speak for the group during the dialogue. The dialogue papers were released as part of the official documentation in languages without editing the content.

CSD-8 Preparation: In the meantime, the CSD NGO Steering Committee experiences internal challenges linked to fundraising and accounting for the finances and election-procedures, representativeness and participation leading to its disintegration in June 2001.

Preparation for the World Summit on Sustainable Development (WSSD) : In 2001 SDIN - the Sustainable Development Issues Network is created, with the aim to support a broader NGO alliance of issue networks, caucuses and groups in the lead up to WSSD, and overcome the stalemate in the Steering Committee, as well as to provide finance and facilitation to those groups travelling to the Preparatory Committee's meetings and Johannesburg, and training on the WSSD process (the core group included ANPED, TWN, ELCI, the Danish 92 Group and the Heinrich Böll Foundation). SDIN was entrusted by the CSD Secretariat to organise the multi-stakeholder dialogues at the WSSD and coordinate the daily NGO driven morning information meeting open to all major groups.

WSSD gave CSD a renewed and updated mandate and CSD 11 in 2003 adopted a new multi-year work programme and devised new and enhanced modes of engagement of the major groups.

CSD-11 - present: the Organizing Partners system is operating mechanism that allows the Secretariat and the Bureau to consult with major groups in a timely fashion, during preparatory phases as well as during the CSD sessions, and to organize multi-stakeholder participation in a harmonious, inclusive, targeted and coordinated fashion.

The post-WSSD era has been characterised by a growing intra-major groups collaboration that led to some tangible partnerships and new forms of cooperation.

Notes

1/ M. Howell: The NGO Steering Committee and Multi-stakeholder Participation at the UN Commission on Sustainable Development, FIM Montreal, Canada, 1999.

2/ M. Howell: Talking our way into sustainable development: An Analysis of the United Nations Commission on Sustainable Development Multi-stakeholder Dialogues, University of Auckland, New Zealand., PhD dissertation.

3/ A/RES/S-19/2, 1997

ANNEX V – CSD Themes – 2004 /2017

2004-2005	2006-2007	2008-2009
<ul style="list-style-type: none"> • Water • Sanitation • Human Settlements • SIDS, Regional Focus 	<ul style="list-style-type: none"> • Energy for sustainable development • Industrial Development • Air Pollution / Atmosphere • Climate Change 	<ul style="list-style-type: none"> • Agriculture • Rural Development • Land • Drought • Desertification • Africa, Regional Focus.

2010-2011*	2012-2013*	2014-2015*
<ul style="list-style-type: none"> • Transport • Chemicals • Waste Management • Mining • A Ten-Year Framework of Programmes on • Sustainable Consumption and Production Patterns 	<ul style="list-style-type: none"> • Forests • Biodiversity • Biotechnology • Tourism • Mountains 	<ul style="list-style-type: none"> • Oceans and Seas • Marine Resources • Small island developing States • Disaster Management and Vulnerability

2016 – 2017*

Overall appraisal of implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the Johannesburg Plan of Implementation

*needs to be reconfirmed during 2008.

Overarching themes:

- Poverty eradication, Changing unsustainable patterns of consumption and production,
- Protecting and managing the natural resource base of economic and social development,
- Sustainable development in a globalizing world Health and sustainable development,
- Sustainable development for Africa

- Sustainable development of SIDS,
- Other regional initiatives,
- Means of implementation,
- Institutional framework for sustainable development,
- Gender equality,
- Education

ANNEX VI - Information note on Modalities from the CSD Secretariat

Major Groups' Participation in CSD-14
New York, 1-12 May 2006

The nature of major groups' inputs and interventions should be in line with CSD-11 decisions for the Review Session: report and share major group' result oriented activities (lessons learned, case studies, best practices, constraints, challenges and opportunities).

Seating arrangements: the seating arrangements during CSD-14 will include seats for all the nine major group sectors (one in the front with microphone and one behind) in both Conference Rooms 2 and 4.

During the course of CSD-14, major groups will be invited to participate as follows:

Participation in Thematic and Regional discussions, the SIDS day, the Partnerships Fair, and the Learning Centre

Throughout the session

Experts from major groups will serve as panelists in the thematic discussions, and major groups' representatives will be invited to participate in all thematic, regional and SIDS day related discussions.

Each of the thematic, regional and SIDS discussions will attempt to include at least two major groups' interventions and ensure the successful delivery of the new integrated approach for major groups' inclusion in the CSD implementation cycle.

Mechanisms for the selection and identification of representatives who will be sitting in the major groups assigned seats and requesting the floor include:

The CSD-14 major groups organizing partners have been asked to identify experts and match them to the topics for these segments;

Caucuses: major groups can also channel their interest in participating in a given session through the various issue or major groups sector Caucuses

The way major groups can participate in the thematic, regional and SIDS discussions include:

Be recognized by the Chairperson based on the submission of their comment/question by filling in the “Request Slips” – in the event this system is being used during that session. The “Request Slips” will be collected by the Major groups’ team staff.

Be recognized by the Chair by raising the major group’s sector name plate

Request Slips: Whenever possible, paper request slips briefly defining the issue or question to be addressed would be collected by the secretariat from anyone requesting the floor and given to the Chair to help facilitate a more coherent discussion. The information contained in the request slip include: name, title, delegation of belonging, question/theme to comment. This method was used last during the past CSD implementation cycle and proved to be successful.

Interventions made during this sessions must be brief (2-3 minutes max).

More specific details on how each of the meetings will run will be provided by the Chair at the beginning of every session.

NOTE: Major groups are invited to provide the electronic version of their interventions for web posting. These can be e-mailed to: csdmregister@un.org

Partnership Fair:

Major Groups’ are expected to actively participate in the CSD-14 Partnership Fair and its related programme.

Learning Centre

The CSD Secretariat developed a programme of activities for the Learning Centre in close collaboration with stakeholders including Major Groups, designed to impart knowledge and build capacity in areas relevant to the Review Session. Major Groups and other CSD-14 participants are expected to actively take part in the planned activities.

Major Groups’ Multi-stakeholder Dialogue Session

Wednesday 3 May, 11:30 am – 1:00 pm

This dialogue session presents major groups with the opportunity to introduce their discussion papers. The session is organized in an issue-driven fashion, comprised of three blocks of time (30 minutes each) that include interventions from both major groups and Governments. The dialogue session will be chaired by Vice-Chair Mr. Javad Amin-Mansour. The identification of speakers among the major groups will be coordinated through the major groups organising partners and the caucuses, and should be communicated to the Secretariat a day before the session.

The thematic blocks will be grouped as follows:

Climate Change And Air Pollution/Atmosphere	Energy for Sustainable Development	Industrial Development
Local Authorities (3')	Business And Industry (3')	NGOs (3')
Indigenous People (3')	Women (3')	Trade Unions (3')
Farmers (3')	Scientific and Technological Communities (3')	Youth (3')
Followed by responses from delegations/open dialogue (20')	Followed by responses from delegations/open dialogue (20')	Followed by responses from delegations/open dialogue (20')

Ministerial Dialogue: Making a difference

Wednesday 10 May 10:30 am– 1:00 pm

This session focuses on the role of the business sector in energy, industrial development and climate change. Ministers and business leaders will each have 5-7 minutes for opening remarks, presenting their views on the critical factors for fostering public-private partnerships and for enhancing the contributions of the business sector to improving access to modern energy services, promoting industrial development and combating climate change. The panel presentations will be followed by open floor discussions, involving other Ministers and heads of delegations.

Ministerial Dialogue Session with Major Groups

Thursday 11 May 11:30 am – 1:00 pm

This dialogue may be organized in a similar fashion as the dialogue for 3 May.

Closing Plenary

Friday 12 May, 4:30 – 6:00 pm

Major groups are expected to make closing remarks on how they will initiate action in implementation in relation to the thematic cluster of issues.

Day of Business and Industry

Tuesday 9 May, 1:15 – 7:45 pm

Dag Hammarskjöld Library Auditorium.

The Business Action for Energy (BAE) --the business community platform created for the CSD-14/15 cycle--, in collaboration with the UN Division for Sustainable Development is organising a “*Day of Business and Industry*”.

The “*Day of Business and Industry*” at CSD-14 complements the thematic discussions on “*Enhancing the contributions of the private sector and other stakeholders in addressing the thematic cluster*” (9 May -morning session) and the Ministerial dialogue “*Making a difference*”: *panel with Ministers, CEOs, IFIs etc*” (10 May - morning session) by bringing together and engaging business, governments, and other major groups sectors in a dynamic

dialogue on energy for sustainable development-related topics.

The “Day of ...” will start off with short presentations introducing the different topics on the agenda (currently being finalised) and providing background information before leading into interactive Q&A sessions. The sessions aim to review the thematic cluster and to highlight past examples and experiences of the various business and industry actors.

BAE founders are the International Chamber of Commerce, the World Business Council for Sustainable Development and the World Energy Council.

Side Events

Side Events will continue to be an important and complementary element of the CSD. Requests from Major Groups and other stakeholders have been processed by the CSD Secretariat in accordance with previous practice. Major Groups and other CSD-14 participants are expected to actively take part in the planned activities.

For additional information please check our website at:
<http://www.un.org/esa/sustdev/csd/csd14/mg/guidelines.htm>.

ANNEX VII - Examples of self-organising

Major Group policy meetings,

As the morning meetings have taken on the nature of an open meeting, where all the 9 major groups are welcome, and as these meetings have slowly been turned into morning information meetings on the politics of the day, NGOs needed a new session for their policy discussions. Such a meeting was organised during the late afternoon, early evening. During the course of a two year cycle, each of the major groups organise their own policy meeting, where attendance is strictly regulated to cater to the specific major group. Over the two-year cycle, and also counting the IPM, roughly 20 policy meetings are held per major group. Attendance is by and large quite good at these meetings.

Modalities to ensure participation,

Developing, writing and agreeing on statements have always been a cumbersome and at times painful process in the NGO world. The variety of interests, attitudes, approaches, the level of knowledge and experience, the right to participate in a participatory way, it all adds up to a process more categorised by discombobulation than an orderly ‘delegates way of doing things’. Yet, this seemingly disorganised way of doing business, reflects in many ways the nature of “we the peoples”. At the very bottom of any facilitation lies the challenge of bringing a major group process into an orderly event with an outcome that everybody can at least agree to being part of and with an outcome that matters in content as well.

Many have tried, and many have failed at this. Yet out of these past experiences, some chaotic, and allowing the untraditional to be tried, a system has emerged at CSD that for

some time may provide answers to the need of participating in an accountable manner. The Arrias system at the Security Council is such an innovation, now being used so many times, that it has found its way into the world of accepted procedures at the UN. And though not entirely new, and embodying the eclectic nature of processes at the UN, maybe the participatory modalities that were used by the NGO major group both at CSD 12 and 13 in developing statements in interactive ways, is another such procedure.

CSD 12 in 2004 was the first CSD to have an all-out review session based on an interactive participation from all the 9 major groups. Coordinating review process input posed new challenges for the major groups community, as all 9 major groups were in many ways considered equal to the delegations and international intergovernmental groups during the CSD formal sessions in plenary. Representatives from the major groups were also called by the chairman to participate directly in the ongoing discussions. Thus higher performance demands were put on each of the major groups, and the NGOs were no exceptions. This involved being prepared with statements, being present at the “table” at any given time during the sessions, and being able to report back with high quality statements to the larger NGO community.

Involving NGOs in various processes,

During CSD 13, it became imperative a number of times to develop an agreed statement to be delivered on behalf of the major groups in the official plenary meetings. The way this was developed by the NGO coordination and facilitation efforts¹⁰⁶, merits mentioning and became the standard in many ways on how NGOs set about developing common statements to be delivered to plenaries at CSD. A statement to be delivered in plenary relates of course always to an agenda issue, and during CSD-13 the issues on the agenda were: water, sanitation and human settlements.

By using the morning meetings, where on an average 90 to 100 persons usually participated, the NGO coordinators (the SDIN Group) notified the major groups community in general, and the NGOs in particular (as this was the primary responsibility for the SDIN Group) that the major groups had been given an opportunity to speak during the plenary sessions. Then the SDIN Group explained a process through which we all could participate and agree to the contents of a statement. The SDIN Group directed a question directly to the NGOs present at the meeting and asked for approval or rejection of the process outlined as follows:

The process was devised during NGO process meetings and first tried out during CSD-12, and later amended and somewhat perfected during CSD-13:

The aim of the process was simple:

Write a statement and present this to the CSD plenary;

Elect a person and a back-up who would present this to the plenary.

¹⁰⁶ Carried out by ANPED, (the Northern Alliance for Sustainability, now part of EEB, the European Environment Bureau, an NGO based in Brussels, Belgium) for the SDIN group, the Sustainable Development Issues Network. SDIN was established in 2000 by ANPED (in Brussels), TWN, (Third World Network, in Kuala Lumpur, Malaysia) and ELCI, (The Environment Liaison Centre International, in Nairobi, Kenya). The network reached out to national NGOs in 180 countries and functioned as the Organising Partner for the NGO major group 2001 until Rio+ 20 in 2012. ELCI and TWN was in 2011 substituted by CIVICUS, World Alliance for Citizen Participation, a network based in Johannesburg, South Africa.

The purpose of the process was also simple:

Establish a group of persons representative of the NGOs present at CSD, representing both the issues and the geography;

Select an interactive way to include into the statement various issues and concerns relevant to the CSD agenda;

Select an editorial group with a mandate from the NGOs present to finalise the statement;

Agree on a process to present the statement to a plenary and representative body of the NGOs present at CSD;

More than hundred persons participated on average in the morning meetings during CSD 13. From talking to this group and from listening diligently to the discussions and statements made during the morning meetings, 8 major groupings within the NGO community were identified: 4 geographical groups, an African, a South American, an Asian and a North-American/ European group; 4 active issue based groupings: 1 working on freshwater, one on human settlements, one called the Water Consortium (consisting of large international NGOs working on water issues: WWF, Freshwater Action Network, Tearfund etc.) and a group that referred to themselves as The Environment Consortium. The NGO people at CSD-13 were asked if they felt they could belong to one of these groupings. They all agreed.

A core group of people representing the 8 identified groupings, (2 per identified group was suggested), was needed to handle the development of the statement, and deal with disagreements or any other problem that might arise in relation to this very process. Each of these groups was asked to identify two persons, thus forming a 16 people body. After having been set up, this group carried on the work that lead to the final formulation of the content of the statement. In addition, this group also chose among themselves a speaker that would deliver the statement to the CSD plenary on behalf of the NGO community.

An assistant/secondment/back-up person to the NGO speaker was also identified. In addition to the 16-group body, 3 persons were identified who had already said they would be willing to function as an editorial board and this editorial board was charged with writing the statement and be responsible to the larger 16-group body. The editorial group consisted of one African, one Asian and one European. These persons were already known to the morning meeting as capable and knowledgeable people. This entire set-up and process was subsequently presented to the larger NGO group present at CSD-13 and unanimously accepted by them.

All accredited NGO persons present, including those NGOs who participated in the CSD proceedings, but for some reasons had failed to show up, could come back to the room in which the process took place (Conference room B) at 2 in the afternoon. Between 2 and 3:30 pm they could all present ideas and issues they felt should be reflected in the NGO statement. (The only condition was that the issues presented had to have relevance to the CSD-13 cluster themes). The 16-person group, representing the 8-issue/geography groupings, including the editorial committee, then received the ideas and wrote them down in an organised manner. The time used for this had to be exactly within the time allotted, and was

punctually terminated at 3:30 pm. Had you not registered an idea before that time, your idea would not be included in the statement. And no latecomers were admitted. That would have involved extending the time again and again and defeated the very purpose of the time framework. After closing time at 3:30 pm, the working group put the statement together; the editorial committee finalised the statement, and the NGO organising partner (SDIN) made sure it was copied and printed and handed out for each and every person present at the morning meeting the following day.

Strict discipline and adherence to decisions taken by the NGO community at CSD was kept at all times during this process. The proposed statement handed out at the morning meeting was not to be discussed there. The more than one hundred participants were told that they should read the statement, and come back to the same room at 2 pm to go through it, but that in accordance with the unanimous decisions taken the previous day at the morning meeting, no new ideas would be allowed to be added to the statement. That sequence was over the previous day. The following afternoon session was only to be about the language: making sure the statement was within the three minute slot the NGOs were given, and making sure the language was strong, succinct, challenging. The afternoon session allowed for a through reading of the statement paragraph by paragraph. This process started exactly at 2 pm and was also terminated at exactly 3:30 pm, as was also unanimously agreed at the morning meeting. The editorial group was then given the final mandate to look over the statement once more, and come up with the final text within the confines of the afternoon discussion on language, after which the organising partner had the finalised NGO document printed and made available for all NGO participants the following morning.

This open and highly participatory process actually allowed more than 100 NGO people to interact and participate in the writing of the first statement, and some 80 persons to interact in the writing of the second statement (there were one such statement each of the two weeks.)

ANNEX VIII: HLPF's heavy agenda

Excerpts from my article published in August, 2013 on Stakeholder Forum's website, London, UK (<http://www.stakeholderforum.org/sf/>) titled: "The High Level Political Forum, the HLPF - a reality for now or the future as well" (Researched and written by Jan-Gustav Strandenaes).

Does the mandate allow it to accomplish its task?

The HLPF has been granted eight days of deliberation every year - from which are taken the three ministerial level days - with an addition of two days every four years at the level of Heads of State and Government. The negotiations have obviously accomplished one task –

giving the new body a high level political status. But should not the amount of days also reflect the complexity and variety of the agenda?

The GA reiterated the general responsibilities of the HLPF as referred to above. But a close reading of the HLPF document reveals a formidable agenda. Paragraph 2 in this document refers to five agenda points that might be considered over-arching or cross-cutting. Paragraphs 7, 11, 20 and 21 lists another eleven agenda points; paragraphs 17 and 18 invite key UN organisations to contribute with elements to at least four additional agenda points, and paragraph 7 sub points c, e, f and g adds yet another four elements. 7f refers to regional sustainability concerns, but indicates no maximum issues to be dealt with. If we add these agenda points, we arrive at 25 – or 29 if we allow each of the five UN regions to come in with only one agenda item.

In addition to these points, the ten introductory paragraphs list 20 major UN conferences that will be surveyed in one way or another. Paragraph 7d states that the HLPF will “follow up and review progress in the implementation of all the major UN conferences and Summits in the economic, social and environmental fields....”

Added to all this, is the discussion on sustainable development goals (SDGs). All nations at the UN are talking about one process for the MDG/SDG agenda after 2015, indicating that the most likely mechanism to deal with the universal SDGs is the HLPF. Depending on the number of SDGs agreed, this will add correspondingly to the work load of the HLPF. For the future work load of the HLPF, let’s hope it doesn’t surpass the number ten.

ANNEX IX: References

Excerpts from my article published in August, 2013 on Stakeholder Forum’s website, London, UK (<http://www.stakeholderforum.org/sf/>) titled: “The High Level Political Forum, the HLPF - a reality for now or the future as well” (Researched and written by Jan-Gustav Strandenaes).

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