

## **INTERNATIONAL INSTITUTIONAL ARRANGEMENTS**

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## **Summary**

International law and institutions serve as the principal framework for international co-operation between members of the international community working towards sustainable development at the national, regional and global levels. International and non-governmental organizations are also actively involved in achieving sustainable development worldwide. The range of actors who are involved in the development and application of international environmental law and sustainable development is broad and increasing. They have different roles and functions, both as subjects and objects of international law. A growing number of international environment agreements, including the Rio Declaration and Agenda 21, support an expanded role for international and non-governmental organizations in many aspects of the international legal process. However, three challenges face the international community. First, ensuring that all states are able to participate in tackling the environmental challenges that require an international legal response. Second, strengthening the role and effectiveness of international organizations, by rationalizing their activities and endowing them with increased functions. Third, ensuring that non-governmental organizations are provided with sufficient international status to participate effectively in the international legal process and to translate global obligations into domestic implementation. These challenges will require elaboration of new rules of participation and procedure; amendment of the constitution of most international organizations; and a rethink on the limits of sovereignty. The increasing number of environmental secretariats would function more efficiently if they could share experiences and expertise, and rationalization might provide them with a stronger basis to engage in the sorts of activities, which are needed. NGOs need to be given a strengthened role and, as implementation and enforcement becomes more important, their participation in the process as observers could be supplemented by allowing them to provide information of a general nature or more specifically on non-compliance by states with their international obligations.

## **1. Introduction**

International law and institutions serve as the principal framework for international co-operation and collaboration between members of the international community in their efforts to achieve sustainable development at the national, regional and global levels.

Apart from states, international organizations and non-governmental organizations are also actively involved in achieving sustainable development worldwide. The various actors within the international community have different roles and functions, both as subjects and objects of international law for sustainable development. These include: participating in the law-making process; monitoring implementation, including reporting; and ensuring implementation and enforcement of obligations. The role of each actor turns upon its international legal personality and the rights and obligations granted to it by general international law and the rules established by particular treaties and other rules. The Rio Declaration and Agenda 21, as well as an increasing number of international environment agreements support an expanded role for international organizations and non-governmental actors in virtually all aspects of the international legal process.

This chapter provides a survey of the main international institutions involved in the promotion of sustainable development and international environmental law. It is widely accepted that states are no longer the only subjects of international law, and that the rules of international law can and do impose obligations on other members of the international community, in particular international organizations, and to a more limited extent, non-governmental organizations.

## **2. International Organizations**

International organizations involved in the achievement of sustainable development are established at the global, regional, sub-regional and bilateral levels. Almost all international organizations today have some competence or responsibility for the development, application or enforcement of international environmental obligations, including functions related to standard setting. The decentralized nature of international organizations in the sustainable development field makes it difficult to assess their role by reference to any functional, sectoral or geographical criteria. International organizations may generally be perceived to either be part of the UN system and its specialized agencies, regional organizations within or outside the UN system, or organizations outside the UN system established by treaty or other agreement.

International organizations perform a range of different functions and roles in the development and management of international legal responses to environmental issues. The function of each organization depends on the powers granted it by its constituent instruments as subsequently interpreted and applied by the practice of the organization and its members. Apart from the very specific functions required of some particular organizations, international organizations perform five main functions:

First, they provide a forum for co-operation and co-ordination between states on matters of international environmental management and sustainable development. The participation of states in the activities of international organizations is the principal means for consultation and informal sharing of ideas and information, which contribute towards building an international consensus for global and regional action (see also *International Co-operation for Sustainable Development*).

The second function of international organizations relates to the provision of information. International organizations receive and disseminate information, facilitate information exchange, and provide for formal and informal consultations between states and the organization. They also act as a conduit for notification of emergencies and other urgent matters.

A third function of international organizations is to contribute to the development of international legal obligations, including “soft law”. This function may take place informally, where the organization acts as a catalyst for the development of legal and other obligations outside the organization itself. Alternatively, it may take place formally and within the organization, where the organization adopts acts and decisions, which can create legal obligations. International organizations develop policy initiatives and standards, may adopt rules that establish binding obligations or reflect customary law and can establish new and subsidiary institutional arrangements.

Once environmental and other standards and obligations have been established, institutions increasingly play a role in ensuring implementation of and compliance with these standards and obligations. Assisting in implementation takes a number of forms. It may be limited to receiving information from parties or other persons on an informal ad hoc basis, or it may entail the regular receipt and consideration of reports or periodic communication from parties to international environmental treaties as a means of reviewing progress in implementation. Assisting in implementation also takes place through the provision of advice on technical, legal and administrative or institutional matters.

A fifth function of international institutions is to provide an independent forum, or mechanism, for the settlement of disputes, usually disputes between states. This may occur through the work of bodies with general competence, such as the Conference or Meeting of the parties to an environmental agreement, adopting an authoritative interpretation of a provision, or by reference of an issue to a body created specifically to assist in dispute settlement.

## **2.1 The United Nations System**

The United Nations (UN), its specialized agencies and subsidiary bodies, organs and programs are the focal point for international law and institutions in the field of environment and sustainable development. The UN was established to maintain international peace and security, to adopt measures to strengthen universal peace and the achievement of co-operation in solving international economic, social, cultural or humanitarian problems. Since the late 1960s the practice of the UN has been to interpret and apply these broad purposes as including the protection of the environment and the promotion of sustainable development.

### **2.1.1 The Commission for Sustainable Development (CSD)**

In 1992, more than 100 heads of state met in Rio de Janeiro for the United Nations Conference on Environment and Development (UNCED). The Earth Summit was convened to address urgent problems of environmental protection and socio-economic

development. The assembled leaders adopted, among others, Agenda 21, a 300-page plan for achieving sustainable development in the 21<sup>st</sup> century. The Commission on Sustainable Development (CSD) was created in December 1992 to ensure effective follow-up of UNCED, to monitor and report on implementation of the Earth summit agreements at the local, national, regional and international levels. The CSD is a functional commission of the UN Economic and Social Council (ECOSOC), with 53 Members from amongst the Member states of the United Nations and its specialized agencies. 13 members are elected from Africa, 11 from Asia, 10 from Latin America and the Caribbean, 6 from Eastern Europe and 13 from Western Europe (see *The Rio Declaration on Environment and Development*).

The CSD's objectives are:

- To monitor progress in the implementation of Agenda 21 and activities related to the integration of environmental and developmental goals throughout the UN system
- To consider information provided by governments regarding the activities they undertake to implement Agenda 21
- To review the progress in the implementation of the commitments set out in Agenda 21, including those related to the provision of financial resources and transfer of technology
- To receive and analyze relevant input from competent non-governmental organizations (NGOs), including the scientific and the private sector
- To enhance the dialogue, within the framework of the UN, with NGOs and with the independent sector, as well as with other entities outside the UN system

Governments are encouraged to submit their national reports on the implementation of Agenda 21 not less than six months before the Commission's session. It is up to individual governments to decide on the degree of detail and regularity of their reporting to the CSD. In carrying out its program of work, the CSD takes into account the results of major intergovernmental events and negotiating processes, with a view to integrating those activities into the review of the implementation of Agenda 21.

The Commission consistently generates a high level of public interest. Over 50 ministers attend the CSD each year and more than one thousand non-governmental organizations (NGOs) are accredited to participate in the Commission's work. The Commission ensures the high visibility of sustainable development issues within the UN system and helps to improve the UN's co-ordination of environment and development activities. The CSD also encourages governments and international organizations to host workshops and conferences on different environmental and cross-sectoral issues. The results of these expert-level meetings enhance the work of CSD and help the Commission to work better with national governments and various non-governmental partners in promoting sustainable development worldwide. The sixth CSD session took place during 20 April-1 May 1998 and the seventh session took place during 19-30 April 1999.

### **2.1.2 United Nations Environment Programme (UNEP)**

The United Nations Environment Programme (UNEP) is built on a heritage of service to the environment. As one of the productive consequences of the 1972 Stockholm Conference on the Human Environment, UNEP provides an integrative and interactive mechanism through which a large number of separate efforts by intergovernmental, non-governmental, national and regional bodies in the service of the environment are reinforced and interrelated. UNEP was established as the environment conscience of the United Nations System. Its most important function is to serve as a forum for addressing existing and emerging environmental issues at the global and regional levels. Since its inception, it has served as the primary means of bringing environmental experts together to share experiences and address global environmental problems collectively.

UNEP's uniqueness lies in its advocacy of environmental concerns within the international system. In this, it makes a particular effort to nurture partnerships with other UN bodies possessing complementary skills and delivery capabilities as well as enhancing the participation of the private sector, the scientific community, NGOs, youth, women, and sports organizations in the achievement of sustainable development.

One of the most important functions of UNEP is the promotion of environmental science and information. UN system-wide research and synthesis of environmental information, promoted and co-ordinated by UNEP, has generated a variety of "State-of-the-Environment" reports, and created worldwide awareness on emerging environmental problems. Some of these have triggered international negotiations of several international environmental conventions, such as the 1973 Convention on International Trade in Endangered Species (CITES), The 1989 Basel Convention, and the 1992 Convention on Biological Diversity.

UNEP was the first UN agency to be based in a developing country (Nairobi, Kenya). It also has regional or liaison offices in Bangkok, Geneva, New York, Mexico City, and Manama (Bahrain).

Today, 27 years after the Stockholm Conference and seven years after UNCED, the challenge before UNEP is to further catalyze, promote and implement an environmental agenda that is integrated strategically with the goals of economic development and social well being—an agenda for sustainable development.

### **2.1.3 United Nations Development Programme (UNDP)**

The UN General Assembly established the UN Development Programme (UNDP) in 1965. It is the principal channel for multilateral technical and investment assistance to developing countries. It is active in all economic and social sectors and has addressed environmental issues since the early 1970s.

Its broad objectives are: (a) to help the UN to become a powerful and cohesive force for sustainable human development, (b) to focus its own resources on a series of objectives central to sustainable human development, poverty eradication, environmental regeneration, job creation, and advancement of women, and (c) to strengthen international co-operation for sustainable human development and serve as a major substantive resource on how to achieve it.

Through a network of 137 offices worldwide, UNDP works with 174 countries and territories to build capacities for sustainable human development. To execute the programs and projects it supports, it draws on the national technical capacities of program-countries, as well as the expertise of more than 30 intentional and regional agencies and non-governmental organizations.

People are at the Center of all UNDP activities, which focus on four priority themes: poverty eradication, creation of jobs and sustainable livelihoods, advancement of women, and protection and regeneration of women. In this context, UNDP is frequently asked to assist in promoting sound governance and market development, and to support the rebuilding of societies in the aftermath of war and humanitarian emergencies. Global and inter-regional programs address worldwide problems, including food security and HIV–AIDS.

Environment was one of the main themes of UNDP's 1992-1996 programming cycle, and environmental objectives were therefore included in 87 percent of the country programs approved for this period and virtually all activities are now screened for their environmental impact. Programs to build capacities for sustainable development and natural resource management are supported in such sectors as food security, forestry, water and sanitation, and urban development. UNDP assisted developing country governments, local NGOs and grass roots organizations to prepare for the 1992 UNCED. As a follow up to UNCED, it is: (a) assisting the developing countries in integrating environmental concerns into development plans (see *Integrating Environment in Decision-Making*), and (b) providing support to strengthen capacity for management of environment and sustainable development programs as called for in Agenda 21.

For this purpose, UNDP launched Capacity 21, which became fully operational in June 1993. By the end of 1998, about 50 countries had Capacity 21 programs and 20 others were being assisted. UNDP promotes and supports environmental programs in co-operation with a wide variety of partners in government, NGOs, community-based groups, UN organizations, and academic and research institutions.

The Human Development Report, published yearly by UNDP since 1990, assists the international community in developing new, practical, and pragmatic concepts, measures, and policy instruments for promoting more people-oriented development. UNDP normally also plays the chief co-coordinating role for operations development activities undertaken by the whole UN system. This includes administering special-purpose funds and programs such as the Office to Combat Desertification and Drought (UNSO) (see *Combating Desertification and Drought*), the UN Capital Development Fund (UNCDF), the UN Volunteers (UNV), and the UN Development Fund for Women (UNIFEM).

#### **2.1.4 United Nations Conference on Trade and Development (UNCTAD)**

Established in 1964 as a permanent intergovernmental body, the United Nations Conference on Trade and Development (UNCTAD) is the principal organ of the United

Nations General Assembly in the field of trade and development. It currently has a membership of 188 Member states. Many intergovernmental and non-governmental organizations have observer status and participate in its work. The Secretariat is located in Geneva, with 394 staff members. The Conference meets every four years at Ministerial level to formulate policy guidelines and set work priorities. The tenth Conference was held in Bangkok, Thailand in February 2000.

The main goals of UNCTAD are to maximize the trade, investment and development opportunities of developing countries and to help them face challenges arising from globalization and integrate into the world economy, on an equitable basis. UNCTAD pursues its goals through research and policy analysis, intergovernmental deliberations, technical co-operation, and interaction with civil society and the business sector.

UNCTAD undertakes the following tasks:

- Globalization and development strategies
- International trade in goods and services and commodities. UNCTAD helps developing countries, particularly the least developed, to maximize the positive impact of globalization and liberalization on sustainable development by helping them integrate effectively into the international trading system
- Analyzes the impact of the Uruguay Round agreements on trade and development, and helps countries respond to the opportunities arising therefrom, including through enhancement of their export capabilities
- Promotes the integration of trade, environment and development and acts as task manager in this area for the UN Commission on Sustainable Development (CSD)
- Investment, Technology and Enterprise Development
- Services Infrastructure for Development, and Trade Efficiency. UNCTAD helps developing countries and countries in transition improve the efficiency of their trade-supporting services through technical co-operation programs
- Least Developed, Land-locked and Island Developing Countries. UNCTAD helps implement the Programme of Action for the Least Developed Countries for the 1990s, the Barbados Programme of Action for the Sustainable Development of Small Island Developing States, and the Global Framework for Transit Transport Co-operation Between Land-locked States and Transit Developing Countries and the Donor Community
- Cross-sectoral Issues.

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<http://www.wmo.org/> [World Meteorological Organization]

<http://www.worldbank.org> [World Bank]

<http://www.worldbank.org/icsid> [International Centre for the Settlement of Investment Disputes]

<http://www.worldbank.org/ida> [International Development Association]

<http://www.wto.org/> [World Trade Organization]

<http://www.xs4all.nl/foeint/> [Friends of the Earth International]

### **Biographical Sketch**

**Beatrice Chaytor** is a barrister with an LLB from University of East Anglia and an LLM from University College, London. As a Senior Lawyer on the TISD Programme, she provides legal advice and assistance to intergovernmental agencies, government departments and international NGOs. Her areas of expertise include international trade, international environmental law and policy, maritime law, shipping, and natural resource management. Her project portfolio includes work with/for several United Nations agencies including UNCTAD, UNDP and UNEP; the European Commission, UK government departments and other governments in Africa and the Caribbean; Greenpeace; WWF International; and Friends of the Earth. She is currently managing a major capacity-building project with UNCTAD on enhancing trade and environmental policy-making among a group of developing countries from Asia, Latin America and Africa. She has served as Legal Adviser to the Sierra Leone Ministry of Trade and Industry and represented Sierra Leone at the WTO Committee on Trade and Environment. She is on the Board of the International Centre for Trade and Sustainable Development and she is a member of the IUCN Commission on Environmental Law. She also teaches postgraduate courses in public international law and international environmental law at the University of London. Her publications include: *Reform of the WTO's Dispute Settlement Mechanism for Sustainable Development*; *The Treatment of Environmental Considerations in the World Trade Organization*; *The Experiences of Developing Countries in the GATT/WTO Dispute Settlement System*; *Developing Countries and GATT/WTO Dispute Settlement: A Profile of Enforcement in Agriculture and Textiles*.