

The cover features three classical columns against a background split into blue and green. One column is white and positioned at the top left, while two others are white and green, positioned at the bottom left and bottom right respectively. The columns are viewed from a low angle, looking up.

The Future We Want: The Legal Outcomes of Rio+20

by Andra Syvanen

with Tina Hlimi, Patrick Reynaud and Christopher Roberts



The United Nations Conference on Sustainable Development (UNCSD), also known as Rio+20, took place from 20-22 June 2012 in Rio de Janeiro, Brazil. Rio+20 was the successor to the 1992 Earth Conference, where both the United Nations Framework Convention on Climate Change and the Convention on Biological Diversity were opened for signing. Rio+20 was preceded by over one year of negotiations. The outcome document, entitled “The Future We Want,” was signed by 191 states, and outlined a plan that, *inter alia*, sets sustainable development goals and other measures to improve food security, provide more effective ocean management, and promote the transition to a global green economy. “The Future We Want” was endorsed by the United Nations General Assembly on 24 July 2012.

As a compromise document, “The Future We Want” was criticized by a number of stakeholders for numerous issues including its lack specific or novel commitments, weak leadership, “business as usual” approach, or lack of reference to women’s reproductive rights. Nonetheless, states did succeed in agreeing to over 300 paragraphs of text related to sustainable development, which could be of great significance in guiding the direction of global sustainable development in the years to come. The outcome document reveals zones of consensus between states in which international endeavours could be particularly effective.

“The Future We Want” is structured around the two main negotiation themes of Rio+20. The themes include the green economy in the context of sustainable development and poverty eradication, as well as the institutional framework for sustainable development. The outcome document also addresses renewing the political commitment for sustainable development, and attempts to emphasize some concrete measures through a framework for action and follow-up.

The purpose of this document is to summarize some of the main legal areas of consensus outlined in “The Future We Want.” This report outlines the recommendations under the umbrella of sustainable development and the rule of law relating to, *inter alia*, human rights, sustainable development, democracy, climate change, state sovereignty, gender equality, desertification, sanitation and forest and oceans management.

I. Our Common Vision

Within the opening section of “The Future We Want,” the states affirm their commitment to continue to be guided by the purposes and principles of the

Charter of the United Nations while fully respecting international law and its principles in the achievement of sustainable development. Basic rights including the right to food, the rule of law, gender equality, and a commitment to just and democratic societies. Reference is also made to the importance of the protection of certain inviolable human rights, including those featured in the Universal Declaration of Human Rights (UDHR) as well as other international instruments relating to human rights and international law. The states pronounce that democracy, good governance, the rule of law, and an enabling environment are crucial for achieving sustainable development.

II. Renewing Political Commitment

The states emphasize the need for a reaffirmation of the Rio Principles and past action plans. In particular, they urge all states to fully implement commitments made under the United Nations Framework Convention on Climate Change, the Convention on Biological Diversity, and the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa.

Under the auspices of advancing integration, implementation, and coherence of the commitments specified in the document, the states seek to assess the progress made to date as well as identify the remaining gaps in the implementation of the outcomes of the major summits on sustainable development, and address new and emerging challenges. In particular, the states strongly recommend that countries refrain from implementing any unilateral economic, financial, or trade measures that defy international law and the Charter of the United Nations and/or impede the full achievement of social and economic development, especially of developing nations. Of particular importance are states' roles in the elimination of obstacles to the full attainment of self-determination of people living under colonial or foreign control. In conformity with international law, states are urged to take effective measures to strengthen the support and meet the needs of people affected by humanitarian emergencies or terrorism.

In an acknowledgement of the important role of local and subnational authorities in decision-making processes, the states recommend increased involvement of and cooperation with major groups and stakeholders who can contribute to decision-making, planning, and implementation of policies and programmes for sustainable development.

III. Green Economy In the Context of Sustainable Development and

Poverty Eradication

The states recommend that any green economy policies in the context of sustainable development and poverty eradication should, *inter alia*, be consistent with international law, respect countries' national sovereignty over their natural resources, and avoid arbitrariness or unjustifiable discrimination. Governments are urged to create enabling frameworks that foster technology, research and development, and innovation that is both environmentally sound and consistent with the goals of sustainable development and poverty eradication.

IV. Institutional Framework for Sustainable Development

In order to strengthen the three pillars of sustainable development (social, economic, and environmental), the states recommend strengthening the institutional framework for sustainable development. The states also emphasize the importance of underpinning intergovernmental arrangements for sustainable development. In particular, the states recommend the establishment of a universal intergovernmental high-level political forum which will draw from, build upon, and eventually replace the Commission on Sustainable Development (CSD). State members strive to ensure that this high-level forum will be established so that it may convene at the beginning of the sixty-eighth session of the United Nations General Assembly (UNGA).

With the hopes of bolstering the environmental pillar in the context of sustainable development and achieving a balanced integration of all three pillars, the states further recommend a strengthened role of the United Nations Environmental Programme (UNEP). UNGA is urged to adopt a resolution focused on strengthening and upgrading UNEP at its sixty-seventh session.

The states stress the significance of multilateral environmental agreements (MEA's) in the achievement of sustainable development. The parties to such agreements are encouraged to adopt measures that ensure MEA efficiency, particularly in terms of preventing unnecessary overlap and duplication while simultaneously promoting coordination and cooperation among agreements.

The states also recommend the facilitation and support of cooperation between regional, national, subnational, and local levels, and action at each of these levels to promote public participation and access to justice in environmental matters.

V. Framework for Action and Follow-up

The states emphasize that in order to achieve the objectives of the UNCSO, the states highlight the necessity to address residual gaps that exist in the implementation of outcomes of major summits on sustainable development, to effectively address new and emerging issues, and to seize new opportunities relating to the issues discussed below.

With regard to poverty eradication, the states are urged to encourage initiatives that serve to provide social protection for all people.

The states are also encouraged to enhance sustainable livestock production systems via mechanisms that are in line with national policies, legislation, rules, and regulations as a means by which to improve and achieve food security and sustainable agriculture.

With regard to the issue of water and sanitation, the states recommend that steps be taken to ensure the protection and sustainable management of water and ecosystems, and reaffirm the commitments made in the Johannesburg Plan of Implementation and the Millennium Development Goals (MDG) to halve the number of people without access to safe drinking water and sanitation by 2015.

In recognizing the crucial role that energy plays in the development process, the states support the creation of enabling environments that facilitate public and private sector investment in the development of cleaner energy technologies.

With regard to sustainable tourism, which is recognized as a potential contributor to all three pillars of sustainable development, the states advise that countries establish appropriate guidelines and regulations in accordance with national legislation for the promotion and support of sustainable tourism.

In the hopes of achieving sustainable cities and human settlements, the states emphasize the important role played by municipal governments in the development and management of urban planning.

In recognition of the importance of human health and its inherent link to sustainable development, the states recommend that steps be taken to ensure that the right to the enjoyment of the highest attainable standard of physical and mental health is achieved. The states further recommend that the Beijing Platform for Action and the Programme of Action of the International

Conference on Population and Development be fully and effectively implemented, including the commitments leading to the protection of all human rights in the context of sexual and reproductive health.

In keeping with the International Labour Organization's (ILO) Recommendation 202 on social protection floors, and with the aim of promoting full and productive employment, decent work for all, and social protection, the states recommend national and local initiatives aimed at providing these mechanisms for all citizens. States are urged to effectively promote and protect the human rights and fundamental freedoms of all immigrants, regardless of their migrant status.

The states recognize that international law, as reflected in the United Nations Convention of the Law of the Sea (UNCLOS), provides the legal framework under which the conservation and sustainable use of the oceans and their resources can take place. The states commit to, and recommend, that oceans and marine systems be protected, and that their health, productivity, resilience, and biodiversity be restored and maintained. All parties to UNCLOS are urged to fully implement their obligations under the Convention. The states further recommend that a decision should be taken before the end of the sixty-ninth session of the General Assembly on the development of an international instrument under UNCLOS. States that are party to the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks are urged to implement that Agreement and give full recognition to the unique and special requirements of developing states. In order to prevent, combat, and eliminate illegal, unreported, and unregulated fishing, the states recommend the development of measures that are in accordance with international law and that will seek to identify vessels engaged in illegal, unreported, and unregulated fishing, and deprive these vessels of the benefits accrued from illegal fishing. The states also encourage countries that have signed the Food and Agriculture Organization Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing to expedite procedures for its ratification in the hope that it will be adopted and ratified by all member states immediately.

The states also note the importance of area-based conservation measures, including marine protected areas, that are in keeping with international law and are based on best available scientific information. The states recommend the implementation of decision X/2 of the Tenth Meeting of the Conference of

the States to the Convention on Biological Diversity (CBD), which calls for the protection of ten percent of coastal and marine areas by 2020.

The parties to the UNFCCC and the Kyoto Protocol are urged to fully implement their commitments and the decisions adopted under these agreements.

In recognizing the social, economic, and environmental importance of forests, the states are urged to implement strategies that will enable the sustainable management of forests, including in the areas of capacity-building and governance, and to promote secure land tenure in accordance with national legislation and priorities.

The parties to the CBD are encouraged to ratify or accede to the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity so that this Protocol may enter into force as soon as possible.

The states recommend that comprehensive national and local waste management policies, regulations, and laws be developed and enforced. In addition, the states highlight the continuation of the ongoing negotiation process for the development of a globally legally binding instrument on mercury in order to address human health and environmental risks caused by mercury poisoning.

The states call for the promotion of continuous improvement of effective legal frameworks, policies, and practices for the mining sector that deliver economic and social benefits, reduce social and environmental impacts, and prevent illicit financial flows from mining activities.

In reaffirming the important role played by women in all areas of sustainable development, the states are urged to adopt measures for the promotion of gender equality and the empowerment of women. Barriers to the full and equal participation of women in decision-making should be removed via the repeal of discriminatory laws, the removal of formal barriers, and the guarantee of equal access to justice and legal support. The states are encouraged to undertake legislative reforms to provide women with equal rights in the context of economic resources, including access to ownership and control over property, credit, inheritance, natural resources, and appropriate new technology.

The states also note the usefulness of the MDG's in achieving sustainable

development, and they recommend that these goals be fully realized in a timely manner. The states further recommend developing goals specific to sustainable development which should fulfil several criteria, namely, that such goals should be based on Agenda 21 and the Johannesburg Plan of Implementation, which fully respect the Rio Principles; take into account different national circumstances, capacities, and priorities; be consistent with international law; build on commitments already made; and contribute to the full implementation of the outcomes of all major summits concerning economic, social, and environmental issues, including “The Future We Want” outcome document. The states advise that these goals be implemented by governments with the active involvement of all relevant stakeholders. The development of these goals will require a transparent intergovernmental process involving all stakeholders and requiring an open working group, which will be constituted no later than the opening of the sixty-seventh session of the UNGA. This group will submit a report to the sixty-eighth session, which will feature a proposal for the consideration and appropriate action required for the implementation of these goals.

VI. Means of Implementation

The states recognise that good governance and the rule of law at the national and international levels are essential for the achievement of sustainable development and the eradication of poverty. The states aspire to the continued pursuit of appropriate national policies and regulatory frameworks that are consistent with national laws to encourage public and private initiatives that will aid in the financing of sustainable development activities.

Noting the importance of capacity-building for the achievement of sustainable development, the states also recommend that scientists and researchers from both developed and developing nations both participate, and are represented in, processes related to global environmental and sustainable development assessment and monitoring.

The legal recommendations put forth by the 2012 UNCSA are all encompassing and will inevitably require state cooperation, consensus, participation, voluntary commitment, and partnerships in order to foster the goals of sustainable development and the rule of law in addition to facilitating the shift toward a green economy and tackling poverty eradication in the 21st century.