PART IV

CONCLUSION

CHAPTER SIXTEEN

THE UNFINISHED AGENDA

16.0 THE CHALLENGE

We have stressed throughout this book that the global environment is under severe pressure and, notwithstanding the ongoing international, regional, and national efforts since the 1972 UN Stockholm Conference, there has been only partial success in protecting it. The Johannesburg Declaration, adopted at the World Summit on Sustainable Development (WSSD), held in September 2002, aptly described the environmental challenges faced by the world community:

> The global environment continues to suffer. Loss of biodiversity continues, fish stocks continue to be depleted, desertification claims more and more fertile land, the adverse effects of climate change are already evident, natural disasters are more frequent and more devastating and developing countries more vulnerable, and air, water and marine pollution continue to rob millions of a decent life.[1]

Ten years after the WSSD the United Nations scheduled a Conference on Sustainable Development (UNCSD) for June 20-22, 2012, in Rio de Janeiro (Rio+20), to mark the 20th anniversary of the UN Conference on Environment and Development in Rio, and aimed at renewing political commitment for sustainable development, assessing progress and remaining implementation gaps since the 1992 Earth Summit and reflecting on new and emerging challenges.[2] UNCSD's focus is on two selected themes: (1) "Green Economy in the Context of Sustainable Development and Poverty Eradication" (GESDPE), and (2) "Institutional Framework for Sustainable Development" (IFSD).[3]

Notwithstanding the global attention and priority on attaining sustainable development, the goal remains elusive, as the United Nations Environment Programme's (UNEP) periodic reports on the global environment, entitled *GEO: Global Environment Outlook*, attest. These reports provide comprehensive up-to-date

---

[1] World Summit on Sustainable Development, Johannesburg S. Afr., Aug. 26 – Sept. 4, *The Johannesburg Declaration on Sustainable Development*, ¶ 13, UN Doc. A/CONF.1999/L.6/Rev.3 http://www.johannesburgsummit.org/html/documents/summit_docs/1009wssd_pol/declaration.doc.

[2] *See* UN General Assembly, Report of the Secretary-General, Objective and Themes of the United Nations Conference on Sustainable Development, UN Doc. A/CONF.216/7, at 4, December 20, 2010, http://www.uncsd2012.org/files/prepcom/SG-report-on-objective-and-themes-of-the-UNCSD.pdf.

[3] *Id.*

assessments of the state of the global environment and the emerging trends to support decision-making, the latest being GEO-5, *Environment for the future we want,* released in 2012.[4] In an earlier report in 2002, after reviewing economic and social factors that result in environmental deterioration related to land, forests, biodiversity, freshwater, coastal and marine areas, atmosphere, and urban areas, GEO-3 reached a sobering conclusion: "In many areas, the state of the environment is much more fragile and degraded than it was in 1972."[5] The report categorized the challenges to sustainable development in four major "divides":

1. *The environmental divide*, characterized by a stable or improved envi-ronment in Europe and North America and a degraded environment in most of the developing countries;

2. The policy divide, characterized by some regions being engaged in appropriate policy development and implementation, while others are lacking in both;

3. *The vulnerability gap*, "widening within society, between countries and across regions with the disadvantaged more at risk to environmental challenge and disasters;" and

4. *The lifestyle divide*, characterized by one fifth of the world's population accounting for 90 percent of total personal consumption while 1.2 billion people live on less than US $ 1 per day.[6]

The report warned that among the three pillars of sustainable development—social, economic, and environmental—which are mutually supportive and essential, the environmental pillar is too frequently neglected and its disintegration "will lead to the inevitable collapse of the other, more charismatic pillars of sustainable development to which policy makers everywhere pay particular attention."[7]

On the other hand, the report noted some successes on the environmental front, such as development of a legal framework, proliferation of environmental institutions, and active participation of civil society, along with specific promising developments such as controlling stratospheric ozone depletion, exploring more holistic approaches to land management, wider acceptance of integrated water resource management, reduction of common air pollutants in many countries, an emerging natural "cluster of biodiversity policies," and strengthening of early warning systems.[8]

---

[4] UNEP, GLOBAL ENVIRONMENT OUTLOOK 5 (2012), http://www.unep.org/geo/pdfs/geo5/GEO5_report_full_en.pdf [hereinafter GEO-5].
[5] UNEP, GLOBAL ENVIRONMENT OUTLOOK 3, at 297 (2002), http://www.unep.org/geo/geo3 [hereinafter GEO 3].
[6] *Id.*
[7] *Id*. at 402.
[8] *See id.* at 297-298.

Two years before the 2002 report, environmental ministers attending a special session of the UNEP Governing Council in Malmö, Sweden in 2000, adopted the Malmö Declaration,[9] which also identified the greatest environmental challenges of the 21st century. Noting the discrepancy between the international community's commitment to halt environmental degradation and action that has been undertaken toward that end, the Declaration concluded that "the root causes of environmental degradation are embedded in social and economic problems such as pervasive poverty, unsustainable production and consumption patterns, inequity and distribution of wealth, and the debt burden."[10] The UN Secretary-General in his Millennium Report of the same year[11] and the UN Millennium Declaration[12] adopted by the General Assembly in 2000 also reached similar conclusions about the critical environmental problems the world faces, their causes and solutions.

Since then, other important assessments of the environment include UNEP's 2007 GEO-4 Report (*Global Environment Outlook -- Environment for Development*),[13] the 2012 GEO-5 Report (*Global Environment Outlook -- Environment for the future we want*), UNEP's annual reports[14] and annual yearbooks,[15] and reports by the US Environmental Protection Agency (EPA).[16] The GEO-4 report was released in 2007, 20 years after the publication of the World Commission for Environment and Development's book, *Our Common Future,*[17] and five years after the adoption of the Johannesburg Plan of Implementation at the World Summit on Sustainable Development.[18] It highlighted the important role of the environment in development and especially for human well-being. It studied environmental and socio-economic trends between 1987 and 2007 and assessed progress in addressing key environment and development issues with reference to "our common future."

The GEO-4 "Summary for Decision Makers" identified environmental changes including climate change, unsustainable land and water use, contaminated water, loss

---

[9] UNEP Governing Council decision SS.VI/1, annex. (2000), http://www.unep.org/malmo/malmo_ministerial.htm.
[10] *Id*.
[11] Kofi Annan, We the Peoples: The Role of the United Nations in the 21st Century, UN Doc. A/54/2000 (2000), http://www.un.org/millennium/sg/report/full.htm.
[12] United Nations Millennium Declaration, G.A. Res. 55/2, (Sept. 18, 2000), http://un.org/millennium/declaration/ares552e.pdf.
[13] UNEP, GLOBAL ENVIRONMENT OUTLOOK 4 (2007) http://www.unep.org/geo/GEO4/report/GEO-4_Report_Full-en.pdf, [hereinafter GEO-4].
[14] Annual Reports, UNEP, http://unep.org/publications/contents/Annual_Reports.asp.
[15] Yearbook Series, UNEP, http://www.unep.org/yearbook/2012/uyb_series.asp.
[16] Homepage at http://www.epa.gov.
[17] Report of the World Commission on Environment and Development: Our Common Future, Transmitted to the General Assembly as an Annex to UN Doc. A/42/427, Development and International Co-Operation: Environment, http://www.un-documents.net/wced-ocf.htm.
[18] World Summit on Sustainable Development Plan of Implementation (revised, Sept. 23, 2002), http://www.johannesburgsummit.org/html/documents/summit_docs/2309/planfinal.htm.

of fisheries, biodiversity decline, and loss of ecosystem services.[19] It called these changes unprecedented, which it said were "due to human activities in an increasingly globalized, industrialized and interconnected world, driven by expanding flow of goods, services, capital, people, technologies, information, ideas and labour, even affecting isolated populations."[20] It also reviewed regional perspectives.[21] Its conclusion was that

> [t]he intertwined environmental and developmental challenges that *Our Common Future* warned about in 1987 still exist, as do the associated policy challenges. Knowledge of the interlinkages between environment and development, and the impacts on human well-being, gained in the past two decades, can be used effectively for the transition towards sustainable development. Concerns about the global environment may have reached a tipping point of their own, with the growing realization that for many problems, the benefits of early action outweigh the costs.[22]

The GEO-4 report in its overview noted that while some progress toward sustainable development had occurred since 1987, "action has been limited on some issues, for example, climate change, persistent organic pollutants, fisheries management, invasive alien species and species extinction,"[23] and especially highlighted the urgency of the climate change issue, calling for action.

The just-released 2012 GEO-5 report, in its "Summary for Policy Makers,"[24] reiterated the earlier findings that unprecedented Earth System changes are occurring as human pressures accelerate and, as a result, "several critical global, regional and local thresholds are close or have been exceeded."[25] With the passing of these thresholds, the report warns, the life-support functions of the planet are likely to face "abrupt and possibly irreversible changes . . . with significant adverse implications for

---

[19] GEO-4, Summary for Decision Makers, at 8-13 (2007), http://www.unep.org/geo/GEO4/media/GEO4%20SDM_launch.pdf [hereinafter GEO-4 Summary for Decision Makers].
[20] *Id*, at 8.
[21] *Id*. at 13-20.
[22] *Id*. at 30.
[23] GEO-4, Section A, Overview, Ch. 1, Environment for Development, at 5, http://www.unep.org/geo/GEO4/report/GEO-4_Report_Full.en.pdf.
[24] The GEO-5 Summary for Policy Makers, reproduced in document UNEP/gcss.XII/INF/9, was negotiated and endorsed at an Intergovernmental meeting from January 29-31, 2012, in the City of Gwanju, Republic of Korea, and launched at UNEP Governing Council Special Session on February 20, 2012 [hereinafter GEO-5 Summary for Policy Makers]. *See also* Statement by the Global Intergovernmental and Multi-stakeholder Consultation on the Fifth Global Environment Outlook held in Nairobi from 29 – 31 March 2010, document UNEP/IGMC.2 Rev.2, suggesting the objectives, scope and process of GEO-5, http://www.unep.org/PDF/geo5/GEO-5_Final Statement.pdf. The full 550-page GEO-5 report, Environment for the future we want, was released on June 6, 2012. GEO-5, *supra* note 4.
[25] GEO-5 Summary for Policy Makers, *supra* note 24, at 6.

human well-being."[26] It gives as examples of such changes the accelerated melting of the arctic ice sheet, as well as glaciers, because of global warming; and on a regional scale "the collapse of freshwater lake and estuary ecosystems due to eutrophication."[27] The report also notes droughts and floods, increased incidences of malaria, the collapse of a number of fisheries, and substantial biodiversity loss, among other changes that have had adverse impacts on human security, food security, health, and the provision of ecosystem services.[28]

After describing advances on the environmental front such as protection of the stratospheric ozone, the report notes that serious challenges remain that threaten development goals. These include climate change and increased pressure on land resources caused by economic growth, population growth, consumption patterns, and global markets, and result in deforestation, land degradation and land conversion, and urbanization.[29] The report paints a bleak picture for sustainability of water resources as 80 percent of the world's population lives in areas with high levels of threat to water security.[30] Among other challenges are continued degradation to the oceans, including marine litter, serious eutrophication of coastal areas and acidification from increased concentrations of CO_2,[31] and biodiversity losses.[32] Ecosystem deterioration continues because of the losses of species. In addition, chemicals pose risks to the environment and human health, and greater urbanization generating more waste, including hazardous waste.[33]

Another publication, a complementary report to GEO-5, entitled *Keeping Track of Our Changing Environment: From Rio to Rio+20 (1992-2012)*,[34] highlights the global environmental changes over the past 20 years on several key issues through data, graphics and satellite images. The report provides a sobering conclusion:

> With limited progress on environmental issues achieved, and few real "success stories" to be told, all components of the environment -- land, water, biodiversity, oceans and atmosphere -- continue to degrade. And notwithstanding great advances in information and communication technologies, we have not made such breakthroughs when it comes to assessing the state of our environment. Until we apply the same dedication to this issue as we have to other areas, data gaps and

---

[26] *Id.*
[27] *Id.*
[28] *Id.* at 6-7.
[29] *Id.* at 7-9.
[30] *Id.* at 10-11.
[31] *Id.* at 11.
[32] *Id.* at 11-12.
[33] *Id.* at 12-13.
[34] UNEP, Keeping Track of Our Changing Environment: From Rio to Rio+20, reproduced in UNEP/GCSS.XII/INF/2, http://www.unep.org/geo/pdfs/Keeping_Track.pdf.

> inadequate monitoring will continue to hinder sound "evidence-based policy-making."[35]

Each UNEP Year Book features a review of environmental developments during the preceding year, in addition to examining the emerging environmental issues. To illustrate, the 2012 Year Book highlighted two emerging issues: (1) the critical role of soil carbon in regulating climate, water supplies and biodiversity and the need to maintain and enhance it by the management of soil so that its economic, societal, and environmental benefits can be sustained and (2) implications of the increase in the decommissioning of nuclear reactors in the next ten years, with an emerging lesson being applied that future power plants should be designed for safe and efficient decommissioning and operation.[36]

The 2011 Year Book focused on three emerging issues – (1) the need to review current practices in and impact of phosphorus use in food production and to enhance the resource efficiency of this nutrient, (2) growing scientific concern over the chemical and material impact of marine litter on wildlife, human health and the environment, and (3) the critical role of biodiversity in maintaining healthy forests.[37] And the 2010 UNEP Year Book addressed six thematic priorities which reflect the organization's assessment of its agenda to meet major challenges to the environment – (1) impacts of climate change; (2) environmental governance; (3) the effects of continuing degradation and loss of the world's ecosystems; (4) effect of harmful substances and hazardous wastes on human health and the environment; (5) environmentally related disasters and conflicts; and (6) resource efficiency -- sustainable consumption and production.[38] These are the six cross-cutting priorities selected as UNEP's Medium-term Strategy for 2010-2013.[39]

The vision of UNEP for the medium-term future was set out in the Nairobi Declaration on the Role and Mandate of UNEP.[40] It is to focus on being:

> the leading global environmental authority that sets the global environmental agenda, that promotes the coherent implementation of the environmental dimension of sustainable development within the United

---

[35] *Id*. at 90. *See also* Ved P. Nanda, *Introduction, in* CLIMATE CHANGE AND ENVIRONMENTAL ETHICS 1-13 (Ved P. Nanda ed., 2011) (highlighting the international environmental issues caused by climate change).
[36] UNPEG, UNPEG YEAR BOOK 2012 – EMERGING ISSUES IN OUR GLOBAL ENVIRONMENT (2012), http://www.unep.org/yearbook/2012.
[37] UNEP, UNEP YEAR BOOK 2011 – EMERGING ISSUES IN OUR GLOBAL ENVIRONMENT (2011), http://www.unep.org/yearbook/2011.
[38] UNEP, UNEP YEAR BOOK 2010 – NEW SCIENCE AND DEVELOPMENTS IN OUR CHANGING ENVIRONMENT (2010), http://www.unep.org/yearbook/2010.
[39] *See* UNEP Medium-Term Strategy 2010-2013 – Environment for Development, http://www.unep.org/pdf/finalmtsgcss-x-8.pdf.
[40] UN General Assembly Official Records, 50th Sess., Supp. No. 25, UN Doc. A/50/25, ch. IV, annex (1995), adopting UNEP Governing Council decision 19/1, annex, http://www.unep.org/roa/Amcen/Amcen_Events/3rd_ss/Docs/nairobi-Decration-2009.pdf.

> Nations system and that serves as an authoritative advocate for the global environment.

While UNEP highlights in its annual reports the organization's performance during the year, it also recounts environmental challenges in special reports, such as *Keeping Track of Our Changing Environment*.[41] The 2011 Annual Report discussed the full range of UNEP's work for environment and development, and highlighted six selected cross-cutting thematic priorities: (1) climate change; (2) disasters and conflicts; (3) environmental governance; (4) ecosystem management; (5) harmful substances and hazardous waste; and (6) resource efficiency.[42] The 2010 Annual Report highlighted ecosystems as that year was the UN-declared International Year of Biodiversity.[43] It underscored the threats to the environment.

UNEP's 2009 Annual Report focused on the green economy – green growth, green spaces, green policy, and green lifestyles, publishing several studies on the topic.[44] The US EPA has also published several studies on environmental challenges, such as Coastal Zones and Sea Level Rise: climate change – health and environmental effects;[45] ecosystems and biodiversity;[46] and Polar Regions / Climate Change – health and environmental effects.[47]

On a more positive note, in his policy statement at the opening of a special session of the UNEP Governing Council in Nairobi on February 20, 2012, UNEP Executive Director Achim Steiner noted that during the 40 years since the Stockholm Conference,

> [T]here is much to celebrate. These years have witnessed the birth and the transformation of the institutions required for environmental policy-making, at the national, regional and international levels – from the establishment of ministries dedicated to environmental protection, to inter-ministerial committees to address climate change or sustainable development, and their equivalents in regional institutions.[48]

Granted that there have been tremendous efforts toward preventing environmental degradation, addressing environmental challenges, and building an institutional and legal framework for international environmental cooperation, the problems continue to mount. As the Zero Draft of the proposed declaration to be adopted at the Rio+20

---

[41] *Supra* note 34.
[42] UNEP, UNEP ANNUAL REPORT 2011, http://www.unep.org/annualreport/2011/.
[43] UNEP 2010 ANNUAL REPORT. http://www.unep.org/annualreport/2010/.
[44] UNEP 2009 ANNUAL REPORT, http://www.unep.org/publications/ebooks/annual-report09/index/aspx.
[45] *Coastal Zones and Sea Level Rise*, EPA, http://epa.gov/climatechange/effects/coastal/index.html.
[46] *Ecosystems and Biodiversity*, EPA, http://epa.gov/climatechange/effects/eco_animals.html#birds.
[47] *Polar Regions*, EPA http://epa.gov/climatechange/effects/polarregions.html .
[48] UNEP, Executive Director's Policy Statement by Achim Steiner, Nairobi, Feb. 20, 2012, at 6, http://www.unep.org/gc/gcss-xii/docs/ED_POLICY_STATEMENT_2012_Lores_fa.pdf.

UNCSD acknowledged, there were setbacks due to financial and economic crises and volatile energy and food prices.[49] The Draft added

> New scientific evidence points to the gravity of the threats we face. New and emerging challenges include the further intensification of earlier problems calling for more urgent responses. . . . [A]round 1.4 billion people still live in extreme poverty and one sixth of the world's population is under nourished, pandemics and epidemics are omnipresent threats. Unsustainable development has increased the stress on the earth's limited natural resources and on the carrying capacity of ecosystems. Our planet supports seven billion people expected to reach nine billion by 2050.
>
> . . . .
>
> . . . [D]espite efforts by Governments and non-State actors in all countries, sustainable development remains a distant goal and there remain major barriers and systemic gaps in the implementation of internationally agreed commitments.[50]

Summarizing the discussions by ministers and heads of delegation at the twelfth special session of UNEP's Governing Council/Global Ministerial Environment Forum on March 8, 2012, the Council president noted:

> The way in which sustainable development has been addressed since the United Nations Conference on Environment and Development in 1992 has been inadequate. Many multilateral environmental agreements have been adopted and programmes established, but there is a lack of

[49] United Nations Conference on Sustainable Development (UNCSD), The Future We Want -- The Zero Draft of the Rio+20 Outcome Document, Jan. 10, 2012, http://www.uncsd2012.org/rio20/content/documents/370The%20Future%20We%20Want%2010Jan%20clean%20_no%20brackets.pdf. [hereinafter The Future We Want]. The Document was submitted by the co-chairs on behalf of the Bureau that steers the preparatory committees, in accordance with the decision in Prepcom 2 to present the Zero-Draft of the Outcome Document for consideration by Member States and other stakeholders. *Id*. note 1. The Outcome Document of the Conference states: "We acknowledge that since 1992 there have been areas of insufficient progress and setbacks in the integration of the three dimenstions of sustainable development, aggravated by multiple financial, economic, food and energy crises, which have threatened the ability of all countries, in particular developing countries, to achieve sustainable development." Rio+20, Outcome of the Conference -- The Future We Want, Rio de Janeiro, Brazil, June 20-22, 2012, ¶ 20, UN Doc. A/CONF.216/L.1, June 19, 2012, https://rio20.un.org/sites/rio20.un.org/files/a-conf.216l-1_english.pdf.pdf. [hereinafter The Future We Want, Final Outcome Document].

[50] The Future We Want, *supra* note 49, ¶ 13. The Final Outcome Document states: "We are deeply concerned that one in five people on this planet, or over 1 billion people, still live in extreme poverty, and that one in seven -- or 14 per cent -- is under nourished, while public health challenges, including pandemics and epidemics, remain omnipresent threats." The Future We Want, Final Outcome Document, *supra* note 49, ¶ 21.

financial resources, adequate monitoring and review mechanisms to support implementation.[51]

As the preceding discussion shows, there is precious little to celebrate as environmental degradation persists. Thus, given the nature and enormity of the environmental challenge a priority item on the agenda for the future has to be concrete action to effectively meet it.

16.1 ADDRESSING THE CHALLENGE

In the discussion of key issues in this book we have focused on the applicable norms, policies, and programs adopted multilaterally as well as regionally and nationally to take effective action to protect the environment. However, environmental degradation persists, notwithstanding the various efforts at all levels, especially since the 1972 Stockholm Conference on the Human Environment., The lack of effective implementation continues to be a major stumbling block in reaching the goal of sustainable development.

To recapitulate, the Plan of Implementation adopted at the 2002 Johannesburg World Summit on Sustainable Development (WSSD)[52] was designed to expedite the full implementation of Agenda 21 (see Chapter 4) and realize the remaining goals of the 1992 Rio UN Conference on Environment and Development (UNCED, see Chapter 4), which it acknowledged had at best been only partially met. The governments participating in the Summit committed themselves to undertaking concrete actions and measures at all levels and to enhancing international cooperation, taking into account the Rio Principles, including, *inter alia*, the principle of common but differentiated responsibilities as set out in principle 7 of the Rio Declaration on Environment and Development. These efforts were aimed at promoting the integration of the three components of sustainable development—economic development, social development and environmental protection—as interdependent and mutually reinforcing pillars. The overarching objectives of, and essential requirements for, sustainable development were stated as poverty eradication, changing unsustainable patterns of production and consumption, and protecting and managing the natural resource base of economic and social development.[53]

The Plan detailed the strategies to reach these objectives. The means of implementation included a focus on an effective institutional framework on the

---

[51] UNEP, President's Summary of the Discussions by Ministers and Heads of Delegation at the Twelfth Special Session of the Governing Council/Global Ministerial Environment Forum of the UNEP, held in Nairobi from Feb. 20-22, 2012, at para. 36, Mar. 8, 2012, http://www.unep.org/gc/gcss-xii/docs/Decisions_summary_advance.pdf, [hereinafter President's Summary].

[52] World Summit on Sustainable Development, Plan of Implementation, Sept. 5, 2002, http://www.johannesburgsummit.org/html/documents/summit_docs/2309_planfinal.doc [hereinafter Johannesburg Plan of Implementation].

[53] *Id*. at ¶ 2.

international, regional, and national levels, and on recommendations for strengthening this framework.[54] Ten years later, the focus of the 2012 Rio+20 UN Conference on Sustainable Development (UNCSD), remained on sustainable development. The conference themes -- a green economy in the context of sustainable development and poverty eradication and the institutional framework for sustainable development -- reflected this focus.

The UNCSD draft Outcome Document, *The Future We Want*, identified the proposed Sustainable Development Goals to include "sustainable consumption and production patterns as well as priority areas such as oceans; food security and sustainable agriculture; sustainable energy for all; water access and efficiency; sustainable cities; green jobs, decent work and social inclusion; and disaster risk reduction and resilience."[55]

Among the proposed means of implementation, the document focused on finance, science and technology, capacity building, and trade.[56] Under finance there was a call for the fulfillment of all official development assistance commitments and increased aid effectiveness, prioritization of sustainable development in the allocation of resources, affirmation of the key role of the private sector in promoting sustainable development, and the strengthening of the Global Environment Facility.[57] Highlighted under the science and technology rubric was the importance of strengthening both (1) the scientific, technological and innovation capacity of countries to promote sustainable development and (2) the international cooperation needed for investment, technology transfer, and development.[58]

The capacity building category included regional and subregional structures and mechanisms in developing countries to facilitate cooperation and the exchange of information, as well as the immediate implementation of the Bali Strategic Plan for Technology Support and Capacity Building.[59] And under trade the document called for realization of commitments made in the World Trade Organization in favor of the least developed countries, an early outcome of the Doha Development Round of Multilateral Trade Negotiations, and the eventual phase-out of market distorting and

---

[54] *Id*. at 120–53.

[55] The Future We Want, *supra* note 49, ¶ 107. Negotiators at Rio+20 were unable to agree on the themes for sustainable development goals and hence to an "open working group" of 30 nations to develop global sustainable development goals, while ensuring the "full involvement of relevant stakeholders and expertise from civil society, the scientific community and the United Nations system in its work, in order to provide a diversity of perspectives and experience." The group will submit a report to the UN General Assembly for consideration and appropriate action. The Future We Want, Final Outcome Document, *supra* note 49, ¶ 248.

[56] The Future We Want, *supra* note 49, ¶¶ 112-127. The Conference's Final Outcome Document similarly focused on finance, technology, capacity-building, and trade as means of implementation, parallelling the earlier draft. The Future We Want, Final Outcome Document, *supra* note 49, ¶¶ 252-282.

[57] The Future We Want, *supra* note 49, ¶¶ 112-117.

[58] *Id*. ¶¶ 118-120.

[59] *Id*. ¶¶ 121-123.

environmentally harmful subsidies, including those on fossil fuels, agriculture and fisheries.[60]

Recitation of sustainable development goals and the means of implementation does not ensure implementation, for what impedes effective implementation has to be addressed. The UNEP Governing Council on March 8, 2012, endeavored to do so. First, it recognized that "there are gaps in our knowledge of the state of the environment resulting from a lack of data and regular monitoring, particularly in areas such as freshwater quality and quantity, groundwater depletion, ecosystem services, loss of natural habitat, land degradation and chemicals and wastes,"[61] and called upon governments and the multilateral system to take action to bridge the data gaps by designing and implementing programs including "building national and regional capacities and establishing regular processes for data-based environmental monitoring and early warning at the national and local levels."[62]

Next, the Council also highlighted the need for "science-based information to support parties and other relevant stakeholders in their transition to sustainable development,"[63] and called upon

> Governments, United Nations bodies, international organizations, the private sector, civil society and the public at large to work with the United Nations Environment Programme and other environmental institutions to integrate science-based environmental information, including from global, regional, and national assessments, into the preparatory process for the United Nations Conference on Sustainable Development.[64]

The need to build capacity and to support technology transfer for developing countries and countries with economies in transition is also a prerequisite for effective implementation, and hence the Council asked the UNEP Executive Director to make this a priority for the UNEP program.[65] The Council had previously, in 2005, adopted this goal under the Bali Strategic Plan for Technology Support and Capacity-building.[66]

In addition, UNEP has prepared several sets of guidelines to assist countries in their implementation process. These guidelines are non-binding and advisory. They do not alter the nation's or government's obligations under the agreements. The guidelines

---

[60] *Id*. ¶¶ 124-127.
[61] UNEP, Decisions Adopted by the Governing Council/Global Ministerial Environment Forum at its twelfth special session, held in Nairobi from February 20-22, 2011, Decision SS.XII/6: World Environmental Situation, ¶ 10, Mar. 8, 2012, http://www.unep.org/gc/gcss-ii/docs/Decisions_summary_advance.pdf.
[62] *Id*. ¶ 11.
[63] *Id*. ¶ 6.
[64] *Id*. ¶ 8.
[65] *Id*. ¶¶ 12-13.
[66] Bali Strategic Plan for Technology Support and Capacity-building, document UNEP/GC.23/6/Add.1, December 23, 2004, http://www.unep.org/GC/GC23/documents/GC23-6-add-1.pdf.

cover compliance with and enforcement of multilateral environmental agreements (MEAs);[67] strengthening implementation of MEAs and enforcement of national policies, laws, and regulations; and the development of national legislation on the 3 "Aarhus pillars" of access to information, public participation, and access to justice in environmental matters.[68] Additional UNEP guidelines -- on the development of domestic legislation on liability, response action, and compensation for damage caused by activities dangerous to the environment[69] -- were adopted almost 40 years after Stockholm Declaration Principle 22 stated that "States shall co-operate to develop further the international law regarding liability and compensation for the victims of pollution and other environmental damage caused by activities within the jurisdiction or control of such states to areas beyond their jurisdiction."[70]

Among other measures to enhance implementation, adequate resources and effective international environmental governance are essential. Indeed, the need for adequate resources to address environmental challenges, especially for developing countries, cannot be overstated. The Global Environment Facility (GEF) has been the primary source of funds for developing countries' environmental protection efforts in several critical areas -- biodiversity, international waters, ozone layer depletion, land degradation, and persistent organic pollutants -- and since February 2011 the organization will also serve as a financial mechanism for the United Nations Convention to Combat Desertification.[71] Formed in 1991, the GEF has provided grants amounting to more than $ 8.5 billion up to March 2010.[72]

Effective international environmental governance is also a prerequisite for effective compliance and implementation, and the current environmental organization structure is not conducive to accomplishing it. The ministers and heads of delegation at the UNEP Governing Council's Special Session on March 8, 2012, reflected this reality in their discussions and the UNEP Council President expressed their view that "urgent change is needed in the current system of international environmental governance.

---

[67] UNEP, Guidelines on Compliance With and Enforcement of Multilateral Environmental Agreements, adopted in Decision GCSS.VII/4, Feb. 13-15, 2002, http://www.unep.org/GC/GCSS-VII/Documents/K0100451.e.PDF. The purpose is to provide assistance to all relevant stakeholders in enhancing and supporting compliance with multilateral environmental agreements.

[68] UNEP, Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters, UNEP/GCSS/XI/11, Annex I, Decision GCSS XI/5 A, Annex, February 24-26, 2010.

[69] UNEP, Guidelines for the Development of Domestic Legislation on Liability, Response Action and Compensation for Damage Caused by Activities Dangerous to the environment, UNEP/GCSS/XI/11, Annex I, Decision GCSS XI/5 B, Annex, Feb. 24-26, 2010.

[70] *See* Chapter 4.1.1.

[71] UNEP Governing Council, Report of the Executive Director, Amendment to the Instrument for the Establishment of the Restructured Global Environment Facility, UNEP/GC.26/12, December 7, 2010, http://www.unep.org/gc/gc26/cow_details-docs.asp?DocID=UNEP/GC.26/12&CatID=15.

[72] Fourth Overall Performance Study of the GEF -- Executive Version, March 2010, http://www.thegef.org/gef/sites/thegef.org/files/documents/OPS4-Executive%20Version_ENGLISH.pdf. For the GEF Database for Project Information, see http://www.thegef.org.

Incremental reform has been too slow and has not addressed the nature or the severity of environmental issues facing the world, but there remain questions as to the exact architecture of a reformed environmental governance system."[73] A UN system-wide synergy for the environment, improving the effectiveness of and cooperation among multilateral environmental agreements clusters, and strengthening the cooperation between UNEP and other UN bodies, are among several possible reforms being considered.

16.3 A FINAL WORD

It is imperative that wider ratification and implementation of the existing MEAs be secured and that the existing environmental organizational structure be further reformed and strengthened to ensure effective international environmental governance. Among other measures considered critical for global environmental protection are the availability of adequate financial resources, transfer of appropriate technology, and assistance in capacity building to developing countries. It is also essential that, along with governments and intergovernmental organizations, civil society actively participate in the decisionmaking process, without which effective implementation is well-nigh impossible.

UN Secretary-General Ban Ki Moon's warning in his message for UNEP's 2011 Annual Report aptly states the need of the day:

> The global population has reached 7 billion people. In just five years, we will add another half billion people -- all needing food, jobs, security and opportunity. Environmental, economic and social indicators tell us that our current model of progress is unsustainable. Ecosystems are under stress. Economies are faltering. We need to chart a course that strengthens equality and economic growth while protecting our planet.[74]

In this light, it seems appropriate to recall the words of then-Secretary-General Kofi Annan in the 2000 Annual Report:

> There is no shortage of ideas on what should be done. . . . What we need is a better understanding of how to translate our values into practice and how to make new instruments and institutions work more effectively. . . . We must . . . ensure that all parties concerned contribute, and that they all benefit from the efficient and environmentally sound use of resources . . . .

[73] President's Summary, *supra* note 51, ¶ 35.
[74] *Supra* note 42, at 2.

> And we must build global public awareness so that individuals and groups all round the world can understand what is at stake and join in the effort.[75]

The question remains: Will the international community heed these calls? Rio+20 left the question unanswered, for there were plenty of promises but the action was deferred to another day.[76]

[75] UNEP Governing Council/Global Ministerial Environment Forum, Seventh Special Session, Cartagena, Colombia, Feb. 13-15, 2002, International Environmental Governance, Report of the Executive Director, UNEP/GCSS.VII/2, ¶ 141, December 27, 2001, cited in Executive Director Report, *supra* note 14, at ¶ 141, http://www.unep.org/gc/GCSS-VII/Documents/k0200009.pdf.

[76] *See, e.g.,* Jonathan Watts & Liz Ford, Rio+20 Earth Summit: Campaigners Decry Final Document, The Guardian, June 22, 2012, http://www.guardian.co.uk/environment/2012/jun/23/rio-20-earth-summit-document/print.