

PARTNERSHIP

INTERNATIONAL LAW FOR SUSTAINABLE DEVELOPMENT

2002 World Summit for Sustainable Development

A Centre for International Sustainable Development Law, International Development Law
Organisation and International Law Association initiative,
with academic, inter-governmental agency, government, civil society and law firm partners.

Other principal partners may include:

United Nations Environment Programme (UNEP)
The World Bank, United Nations Treaty Section and United Nations Institute Training and Research
Governments of Canada, Switzerland, Iran, Egypt, Panama and South Africa
The law firms of McCarthy Tetrault, Edward Nathan Friedland (Pty.) and others.

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Expected date of initiation: August 2002

Expected date of completion: August 2007

Goal and objectives of the Partnership:

This initiative focuses on implementation significant legal development in the field sustainable development. The main goal is to strengthen sustainable development governance at the international, regional and national levels, laying the foundation for policy implementation by facilitating access to, compliance with, and enforcement of coherent, integrated economic, social and environmental law. This project is geared to both lawyers and non-lawyers in developing countries and countries with economies in transition. The objectives are:

_ To found a **user-friendly web-based legal resource centre**, based on links to networks and databases of experts and contacts, engaging developed and developing country jurists, to assess, promote and implement international law for sustainable development.

_ To carry out **legal research and experts workshops**, and **develop a series of new legal briefs and capacity building manuals** on intersections of social, economic and environmental law. These shall be made widely accessible to scholars, decision-makers and civil society, in particular those in developing countries (and countries in transition).

_ To undertake capacity building and training in international sustainable development law (ISDL), so as to assist developing country governments, IGOs, judges, parliamentarians, local communities and the media to effectively address inter-linked environmental, economic and social challenges.

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Other Principal Partners:

The partners listed below are potentially implementing bodies; however participation in the project will not be limited to them. The project aims to empower and reach both lawyers and non-lawyers.

Governments: Antigua and Barbuda, Canada, Egypt, Iran, Kenya, Panama, Netherlands, Norway, South Africa, Sri Lanka, Switzerland, Uganda and the United Kingdom have been requested to join. Partnership workshops are contemplated in Antigua and Barbuda, Canada, Egypt, Iran, Kenya, Panama, South Africa, Sri Lanka and the United Kingdom.

Intergovernmental organizations: World Bank Legal Vice Presidency, United National Environment Programme, Office of the High Commissioner for Human Rights, United Nations Development Programme, United Nations Treaty Section and United Nations Institute for Training and Research.

Civil Society: Canadian Human Rights Foundation, Centre for International Environmental Law, Centre for Economic and Social Rights/Economic and Social Rights Network, Envirolaw 2002, Foundation for International Environmental Law and Development, Law & Society Trust (Sri Lanka).

Law Firms: Edward, Nathan and Friedland (South Africa), McCarthy Tetrault (Canada), Ogilvy Renault (Canada), Davies, Ward, Phillips and Vineberg (Canada).

University Faculties of Law: Oxford University (United Kingdom), Cambridge University (United Kingdom), University of Colombo (Sri Lanka), University of Costa Rica (Costa Rica), AIID Free University of Amsterdam (Netherlands), Graduate Institute of International Studies (Switzerland), McGill University (Canada), Université de Montréal (Canada), University of Pretoria, WITS (South Africa), United Nations University (Japan), Yale University (United States).

Link to the Global Sustainable Development Agenda:

With regard to facilitating the implementation of sustainable development, the CSD should
“(e) Take into account significant legal developments in the field of sustainable development, with due regard to the role of relevant intergovernmental bodies in promoting the implementation of Agenda 21 relating to international legal instruments and mechanisms.”

(2002 WSSD Plan of Implementation, Chapter XI, 148 (e))

1992 Agenda 21

In particular, in Chapter 39 (International Legal Instruments and Mechanisms) and Chapter 38 (International Institutional Arrangements) of Agenda 21, states and other partners are urged to:

- _ To further develop international law on sustainable development, giving special attention to the delicate balance between environmental and developmental concerns (39.1.a.);
- _ To clarify and strengthen the relationship between existing international instruments or agreements in the field of environment and relevant social and economic agreements or instruments, taking into account the special needs of developing countries (39.1.b.);
- _ To provide developing countries with technical assistance in their attempts to enhance their national legislative capabilities in the field of environmental law (39.1.d).
- _ To integrate environment and development issues at national, sub-regional, regional and international levels, including in the United Nations system institutional arrangements (38.7).

2000 Millennium Declaration

These agenda items are named as part of the necessary means of implementation for Agenda 21. The substantive areas of Agenda 21 also contain an international legal agenda, and these are repeated with force in the Millennium Declaration on issues such as:

- _ Combating poverty (Agenda 21, Ch.3, Millennium Declaration, S.III),
- _ Conservation and management of resources for development (Agenda 21, S. II, Millennium Declaration, S. IV),
- _ Protection of Human Rights (Millennium Declaration, S.V).

2002 Political Declaration and Plan of Implementation of the World Summit on Sustainable Development

The importance of good governance for sustainable development is recognised in the outcomes from the 2002 World Summit for Sustainable Development, where governments have agreed in the 2002 WSSD Political Declaration that:

“We undertake to strengthen and improve governance at all levels for the effective implementation of Agenda 21, the Millennium development goals and the Plan of Implementation of the Summit.” (WSSD Political Declaration at 30)

“We reaffirm our commitment to the principles and purposes of the Charter of the United Nations and international law, as well as to the strengthening of multilateralism. We support the leadership role of the United Nations as the most universal and representative organization in the world, which is best placed to promote sustainable development. (WSSD Political Declaration at 32)

This project also responds to needs identified in the 2002 WSSD Plan of Implementation such as:

“Good governance within each country and at the international level is essential for sustainable development. At the domestic level, sound environmental, social and economic policies, democratic institutions responsive to the needs of the people, the rule of law, anti-corruption measures, gender equality and enabling environment for investment are the basis for sustainable development.” (WSSD Plan of Implementation at 4)

The essential substantive issues addressed in the proposed workshops and capacity building manuals on areas of intersection in social, economic and environment law. These respond to needs identified in the WSSD Plan of Implementation, where governments have agreed to:

Land Use, Agriculture and Sustainable Livelihoods

Adopt policies and implement laws that guarantee well defined and enforceable land and water use rights, and promote legal security of tenure, recognizing the existence of different national laws and/or systems of land access and tenure, and provide technical and financial assistance to developing countries as well as countries with economies in transition that are undertaking land tenure reform in order to enhance sustainable livelihoods; (WSSD Plan of Implementation at 40 i)

Forestry, Forest Biological Resources, and Illegal Trade in Forest Products:

Take immediate action on domestic forest law enforcement and illegal international trade in forest products, including in forest biological resources, with the support of the international community, and provide human and institutional capacity-building related to the enforcement of national legislation in those areas; (WSSD Plan of Implementation at 45 c)

Health, Traditional Medicine and Traditional Knowledge:

The preservation, development and use of effective traditional medicine knowledge, and practices, where appropriate, in combination with modern medicine, recognizing indigenous and local communities as custodians of traditional knowledge and practices, while promoting effective protection of traditional knowledge, as appropriate, consistent with international law; (WSSD Plan of Implementation at 54 h)

Desertification, Grassland Resources and Drought:

- Strengthen the implementation of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa,⁷ to address causes of desertification and land degradation in order to maintain and restore land, and to address poverty resulting from land degradation. This would include actions at all levels to:

(g) Improve the sustainability of grassland resources through strengthening management and law enforcement and providing financial and technical support by the international community to developing countries. (WSSD Plan of Implementation at 41).

Fisheries, Straddling Stocks and Compliance:

- To achieve sustainable fisheries, the following actions are required at all levels:

(b) Ratify or accede to and effectively implement the relevant United Nations and, where appropriate, associated regional fisheries agreements or arrangements, noting in particular the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and the 1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas; (WSSD Plan of Implementation at 31)

In terms of governance, the WSSD Plan of Implementation at 4 commits government to:
Integration of the economic, social and environmental dimensions of sustainable development in a balanced manner;

Strengthening coherence, coordination and monitoring;

Promoting the rule of law and strengthening of governmental institutions;

Facilitate implementation of sustainable development, taking into account significant legal developments in the field of sustainable development; and

Continue to promote coherent and coordinated approaches to institutional frameworks for sustainable development at all national levels, including through, as appropriate the establishment or strengthening of existing authorities and mechanisms necessary for policy-making, coordination and implementation and enforcement of laws.

All countries should promote sustainable development at the national level by, inter alia, enacting and enforcing clear and effective laws that support sustainable development. All countries should strengthen governmental institutions, including by providing necessary infrastructure and by promoting transparency, accountability and fair administrative and judicial institutions.

This partnership is structured to implement the 2002 WSSD Plan of Implementation, especially:

- Improve the transfer of technologies to developing countries, in particular at the bilateral and regional levels, including through urgent actions at all levels to:
 - (a) Improve interaction and collaboration, stakeholder relationships and networks between and among universities, research institutions, government agencies and the private sector; (WSSD Plan of Implementation at 106).
- Assist developing countries in building capacity to access a larger share of multilateral and global research and development programmes. In this regard, strengthen and, where appropriate, create centres for sustainable development in developing countries. (WSSD Plan of Implementation at 107).
- Build greater capacity in science and technology for sustainable development, with action to improve collaboration and partnerships on research and development and their widespread application among research institutions, universities, the private sector, governments, non-governmental organizations and networks, as well as between and among scientists and academics of developing and developed countries, and in this regard encourage networking with and between centres of scientific excellence in developing countries. (WSSD Plan of Implementation at 108).
- Provide financial assistance and support to education, research, public awareness programmes and developmental institutions in developing countries and countries with economies in transition in order to:
 - (a) Sustain their educational infrastructures and programmes, including those related to environment and public health education;
 - (b) Consider means of avoiding the frequent, serious financial constraints faced by many institutions of higher learning, including universities around the world, particularly in developing countries and countries in transition.
 - (c) Promote, as appropriate, affordable and increased access to programmes for students, researchers and engineers from developing countries in the universities and research institutions of developed countries in order to promote the exchange of experience and capacity that will benefit all partners; (WSSD Plan of Implementation at 117).

And finally, this partnership contemplates research and analysis of key principles and issues in international law for sustainable development, as identified by the WSSD Plan of Implementation:

- the principle of common but differentiated responsibility
- the principle of the precautionary approach, as it applies to the environment and health
- public participation, including through measures that provide access to information regarding legislation, regulations, activities, policies and programmes, and
- the possible relationship between environment and human rights, including the right to development, with full and transparent participation of Member States of the United Nations and observer States.

Expected Deliverables:

- _ Research, development and dissemination of a significant body of knowledge and capacity on ISDL, through the creation of legal research networks and, and a series of 10 publications reviewed through 10 participatory policy dialogue workshops among international economic, environmental and human rights treaty communities over 5 years, posted on a user-friendly web-based legal resource center.
- _ Capacity-building for legal professionals, the judiciary and developing country community activists, as well as non-lawyers, on governance mechanisms and legal instruments to effectively address inter-linked environmental, economic and social challenges in key ISDL issue areas.
- _ Strengthened compliance and enforcement mechanisms in developing countries, to better implement international law related to sustainable development.

- _ Greater involvement of the international academic, legal professional and judicial associations in the development and implementation of international sustainable development law.
- _ Review and development of innovative new sustainable development governance mechanisms and legal instruments, through international cooperation and initiatives springing from the partnership.

Specific targets of the Partnership and Timeframe for their Achievement:

- _ Sustainable development legal components in networks and databases composed of over 300 legal professionals, firms and institutions by 2007.
- _ Organisation of at least 10 experts workshops (for social, economic and environmental communities) on treaty assessment and further means of integration by 2007. These will focus on specific deliverables (legal briefs, reports) and commitment of workshop participants to engage in regional, sub-regional and national-level workshops.
- _ Publication of 1 general manual on international law for sustainable development by 2003, and at least 6 capacity-building manuals and a series of legal briefs (on specific areas of intersection per workshop topic) by 2007.
- _ Engagement of over 30 justice systems, legal associations and academic institutions in legal sustainable development capacity building and training by 2007. These networks will be representative of developed, developing country and economy in transition countries, with a diversity of legal systems and geographical balance.

Coordination and Implementation mechanism

- _ A Coordination Group composed of three partner institutions, with two coordinators designated from each, will make decisions concerning the implementation of the partnerships plans in consultation with focal points designated from each of the specific partners. Coordination will be carried out through an intra-net linking all partners.
- _ An International Council of high-level legal experts will be appointed by the three partners to guide and support the implementation of the goals of the partnership.
- _ A Conference, Sustainable Justice 2007, will be held to present and discuss the results of the partnership and related activities.
- _ Working relationships will be reinforced through exchanges, site visits and participation in workshops, and through development and strengthening of institutional relationships, including inter-university accords, exchanges of letters, and other mechanisms.

Arrangements for funding

The budget of the partnership, for the CISDL and developing country partners, is approximately \$300,000 CAD per year over the course of 5 years, with an additional \$20,000 per partner per year provided in kind. Each partner will coordinate funding of approximately \$100,000 CAD.

Arrangements for Capacity Building and Technology Transfer

- _ Joint development and publication of a training manual on Compliance and Implementation.

- _ Organisation of specific legal capacity building workshops (2005 - 2007).
- _ Capacity building and training for developing country partners, including bar associations and judges, on sustainable development legislation review techniques; sustainable development accord negotiation and monitoring techniques
- _ Organisation of specific sabbaticals and fellowships for developing country judges and law professors on sustainable development legal topics.

Technology Transfer

- _ Partners are to be involved at the research stage, in particular developing country partners. In particular, capacity building workshops will create a space and a framework for technology transfer to be applied and formulated with reference to the needs of the relevant country.
- _ Development and dissemination of a significant body of knowledge and capacity on international law for sustainable through approx. ten publications, in particular a manual on international sustainable development law, and a user-friendly web-based resource centre.
- _ The ILA Principles of International Law Related to Sustainable Development (ILA New Dehli Declaration of 2002) will be used as a means to guide the recommendations to be made for the transfer of legal formulations.

Links of Partnership with On-Going Sustainable Development Activities on All Levels

- _ United Nations Environment Programme – Co-Sponsorship of the first conference on ISDL in Montreal. The partnership will build on UNEP’s current work on training of judiciaries and developing international environmental law, and international law in the field of sustainable development.
- _ World Bank – Co-Sponsorship of the first conference on ISDL in Montreal. The partnership will build on the World Bank Legal Vice-Presidency’s current work on publishing and advising governments,
- _ Office of the High Commissioner for Human Rights – Engagement with OHCHR/UNEP projects on human rights and environmental protection. The partners cooperated on linking human rights law to financing at Monterrey Summit on Financing for Development, and provided legal expertise to the governments on these issues during the World Summit on Sustainable Development.
- _ Treaty Bodies (COPs) – Engagement of Montreal-based treaty bodies in the first conference on ISDL in Montreal. The partnership will build on the Rio Conventions and others’ current work on capacity building, development of domestic legal frameworks and development of international law in the field of sustainable development.

Monitoring Arrangements

- _ Updates will be provide through the intranet, and conference calls for the Coordinating Group, on a regular basis
- _ Monthly progress reports will be provided over a listserv for the partnership, with contributions by the core partners and others, on a rotation basis
- _ Meetings will be held parallel to international negotiations and meetings of Conference of the Parties to international conventions.
- _ The Partnership will hold a specific meeting to review progress, and hold a press conference or legal experts panel, in the United Nations Commission on Sustainable Development each year.

Other relevant information:

- _ The partnership was developed in an inaugural conference: Sustainable Justice 2002 – Implementing Sustainable Development Law, in June 2002, which brought together judges, lawyers, professors to discuss means to implement international sustainable development law. This initiative was linked to a further sister conference, Envirolaw 2002, held in August 2002 in Durban, South Africa.
- _ A general manual on international sustainable development law, ‘Weaving the Rules for Our

'Common Future' was presented at the June 2002 conference as working paper for consultation, and officially launched in both the Durban Envirolaw 2002 conference, and the 2002 World Summit for Sustainable Development, in an official side event entitled 'International Law for Sustainable development.'

– The secretariat of treaties such as the Convention on Biological Diversity, the United Nations Desertification Convention, the Multilateral Fund for the Montreal Protocol and the North American Commission on Environmental Cooperation are currently participating in, and advising, this partnership.

– CISDL and partners have provided legal advice on integrated decision-making at the World Trade Organization 4th Doha Ministerial, UN Financing for Development process and preparatory process for the World Summit on Sustainable Development.