

# **Rio+20; Principles in decline, rights deleted and future unsustainable**

**Discussion paper for Media Consultation on “Sustainable Development and Rio+20”  
5<sup>th</sup> June, 2012, New Delhi**

## **Organizers**

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Hundreds of heads of the government, UN, INGOs, and civil society will gather at the UNCSD Meeting in Rio, to commemorate the 20<sup>th</sup> anniversary of UNCED Meeting at Rio (1992) and 40<sup>th</sup> anniversary of Stockholm meeting (first political conference to have environment on the agenda) will be held at June at Rio in Brazil. Since Rio the world has seen enormous changes. While poverty was concentrated in third world in the 1990s, it is pervasive and is found everywhere now. Series of crises economic, food, fuel and environmental, have shaken the leaders of the world to the fundamental gaps in the global governance, which perpetuates poverty, disease, displacement, and degradation. Free trade and market driven strategies have created unprecedented inequalities, and unsustainability of eco-systems. Financial and governance architecture of the world have increased poverty and hunger, forced displacement of indigenous and local communities, violations of human rights and fundamental freedoms and the right to water and sanitation. While most of the countries and poor people world over do acknowledge the opportunity that Rio+20 provides; their opinion on whether it will renew political commitment towards sustainable development varies substantially.

## **Themes and focus of Rio+20**

The theme of the Meeting in Rio is the “Green Economy in the context of Sustainable Development and Poverty Eradication” (GESDPE), and “Institutional Framework for Sustainable Development” (IFSD). While the green economy aims at “greening the economy,” and “greening the jobs” through a number of measures including coming up with road map and Sustainable Development Goals (SDGs); IFSD aims at improving global environmental governance by choosing from a slew of proposals including strengthening ECOSOC, or converting Commission on Sustainable Development (UNCSD) to Sustainable Development Council (on the lines of Human Rights Council), or making UNEP more effective through universal membership. 15 key/thematic issues have been also listed for attention of the Conference including food security, water, energy, cities, green jobs and social inclusion, oceans and seas, natural disasters, climate change, forests and bio-diversity, land desertification and degradation, mountains, chemicals and waste, sustainable consumption and production, education and gender equality.

## **The Zero Draft**

The outcome document to be adopted by the Rio+20 or the UNCSD Conference is called the Zero Draft and is titled as “the future we want.” The zero draft was compiled from inputs from the member states, INGOs, and observer organizations (NGOs and Business) in November 2011. Put together by the Bureau of the UNCSD it was made public on 11<sup>th</sup> January 2012. The final draft will be adopted in the June Meeting at The UNCSD Meeting or Rio+20 is aimed at renewing political commitments to sustainable development, looking at gaps and failure of implementation of the previous commitments made, and new and emerging challenges to sustainable development.

The zero draft is divided in 5 sections including preamble (vision) and stage setting, renewing political commitment (affirmation to Rio Principles, assessing progress and gaps, engaging major groups, framework for action), Green economy in the context of sustainable development and poverty eradication (framing the context for GE and challenges, toolkits and experience sharing, framework for action), institutional framework for sustainable development (strengthening the three pillars, options

for improving IFSD), and framework for action and follow up (including key thematic areas, accelerating and measuring progress, and means for implementation).

### **What's there in the zero draft for the developing and poor countries?**

Globally zero draft has been criticized for being a compromised document, with low ambitions, and no concrete framework for action. It is being felt increasingly that themes chosen do not reflect the root cause of crisis and therefore, is incompetent to deal with them. Series of crises are pointer to the fact that International financial architecture, trade and aid, create hegemony of resources on few developed industrialized countries and institutions (including BWIs and the WTO), which collude with private corporate to loot the natural resources of the global south. International financial architecture and systems have also helped create a hiatus between capital and labour; while the richest 1% of the population has come to possess about 40% of the assets of the world (together with the next 2% it possesses more than 51%), the poorest half of the population possesses less than 1% of the world's wealth. Such concentration of wealth deploys means and methods of production, which are based on over exploitation of natural and human resources and are essentially driven by motives of creating further wealth in complete disregard to principles of sustainability. Zero draft acknowledges the crisis, failure of GDP as an indicator to assess growth, as it does not include environmental externalities and is incapable of assessing progress on sustainable development, and most importantly need for reform in the (financial) structure and institutions; however, it falls short of showing urgency for these reforms.

Preamble and the stage setting does not have the unequivocal centrality of environmental concerns, and does not have the urgency which the science demands given the fact that we have exceeded by more than 40% the bio-capacity of the earth. The section on renewing political commitments, only mentions equity and CBDR, and Agenda 21, rather than acknowledging all the principles of Rio including do no harm, polluter pays, intergenerational equity, principles of justice. It should also have reference to strong and enhanced political commitments. Assessing progress to date and identifying gaps does well to acknowledge the crisis but it does not address the key reasons for unsustainable development. It also says that countries have deeper commitments to sustainable development. However, the fact is that despite more countries bringing in "sustainable development" in their policies and national commitments, empirical facts prove the contrary. It also fails to talk about unsustainable consumption patterns and commitments to review it, which is a major factor for lack of development in many developing and poor countries.

The Green Economy in the context of Sustainable Development and Poverty Eradication too has been defined vaguely. It is viewed as a means to achieve sustainable development, and as a decision-making framework as opposed to a rigid set of principles. The text suggests that GESDPE should not create trade barriers, impose new conditionalities on aid and finance, widen technology gaps, and restrict the policy space. However, it is necessary that it guarantees that trade framework should be reviewed to facilitate adequate protection to local economy, and environment and natural resources, additional aid and finance to developing countries to develop sustainable pathways, making adequate and relevant technology available, and sovereignty in policy space and choice in developing green growth pathway. The framework for action suggests over emphasis on creating a road map for green economy, which developing countries decry. They feel that all countries should be able to develop and define their green economy in their particular economic, social and environmental contexts and green economy should respect political sovereignty and sovereignty over their natural resources. Developing countries also demand fulfillment of previous commitments for financial and technological assistance. Due to over reliance on private business and corporations, many also allege that green economy aims at greening business and profits. Developing countries allege poverty eradication should have priority over greening the economy and greening of jobs.

Institutional Framework for Sustainable Development talks about strengthening the global environmental governance by integrating three pillars of sustainable development viz. environmental, social and economic development. It also calls for providing strong governance at local, national, regional and global levels, for cohesive government driven policy guidelines on SD, monitor progress of agenda 21, and bring about coherence in the agencies, funds and programmes of the UN and of the IFIs. In the context of strengthening institutional framework, it commits GA as the highest policymaking body and lists three proposals, strengthening ECOSOC, creating a sustainable development council and expanding the mandate of the UNEP. The zero draft also acknowledges rightly the need for due attention by IFIs, WB, IMF, UNCTAD and the WTO. However, it does not call for reform in these institutions, which has been demanded by developing and poor countries.

The section on Framework for action and follow up, besides listing key thematic priorities acknowledges the failure of GDP as an indicator for measuring the sustainable development, and proposes coming up with Sustainable Development Goals (SDGs) by 2015, along with follow up mechanisms and reporting on progress made. Means of implementation recognizes the need for renewing political commitments for finance, and calls developed countries to achieve the target of 0.7% for developing countries, and 0.15 to 0.20% for LDCs. However, it is alleged that it does not commit for additional funding which is urgently required. It also calls for capacity building support and removal of impediments to allow transfer of technology to developing countries, however it does not assure removal of IPRs, which has been a contentious issue on many fora including the UNFCCC negotiations, despite being provided for in the Kyoto Protocol. The need for early conclusion of Doha round of talks under the WTO, and devising a rules based non discriminatory framework in the favour of least developed countries are also recognized, with calls for phasing out trade distorting subsidies on fossil fuels, agriculture and fisheries. Developing a compendium of commitments, which should allow not only the parties but also the private actors to contribute, is also proposed. The commentators say that voluntary commitments are not enough in face of a weak framework and regime for further action and follow up, and in the face of growing challenges posed by environmental and climate crisis.

Zero draft has been attacked not only by the developing and poor countries, but also by civil society/major groups as being weak, vague and creating space for greening of business, and lacking commitments for real and sustainable solutions.

### **Consultations and negotiations on the zero draft; a zero sum game**

Till March 2012, the zero draft has undergone rounds of consultations in three inter-sessionals, and one informal informals under the aegis UNEP/UNCSD. It will be further discussed in second informal informals (April 23 to May 4) and fourth intersessional (June) immediately before the High Level Forum (20-22 June, 2012). First intersessional (December, 2011) discussed the zero draft in work and and the second intersessional (Jan, 2012) discussed first two sections of the draft namely preamble and stage setting, and renewing political commitments. The third intersessional and first informal informals, focused on other three sections on Green Economy, IFSD and Framework for action and follow up. By the draw of third intersessional first reading of the entire draft has been completed. The draft, which originally contained 128 paragraphs and 19 pages, it has been expanded to 206 pages with suggestions of the parties. With less than twenty negotiating days, the parties are expected to prune this draft to one-fifth.

The negotiations on the zero draft have brought out sharp differences between the developed and developing countries over the concept of sustainable development and critical issues accompanying it. Green economy and road map for green economy, IFSD, means of implementation, sustainable

development goals, compendium of commitments have been proved extremely contentious. By the end of third inter sessional it has become clearer that developed countries are more in favour of laying down a road map on green economy, SDGs, and emphasizing importance of private participation in sustainable development. Developing and poor countries (represented by G 77/China) are emphasizing poverty eradication (in preference to green economy and green jobs, road map on green economy) and want to ensure that green economy is not used against them to put on trade, aid and finance conditionalities. Besides, developed countries have an emphasis on environmental aspects, while developing countries ask for integration of three pillars social, economic and environmental with special emphasis being on poverty eradication, the reform of economic institutions and structures, and ensuring financial and technological means. The difference between developed and developing and poor countries and their positions in certain key areas figure as below:

### **Commitment to Rio Principles**

The Rio UNCED laid down a number of important principles including equity, CBDR, do no harm, polluter pays, intergenerational equity and principles of justice. Principles and equity and CBDR were referred to as foundation for the sustainable development and cooperation between developed and developing countries. Later CBDR also found its way in UNFCCC, Kyoto Protocol and Berlin mandate, which were to become an important starting point for climate change conferences. Zero draft only mentions equity and CBDR. It is also becoming extremely apparent that developed countries are reneging on fulfilling previous promises, and keep up the steadfast commitment with the Rio principles, which developing countries say are foundation for the discussion. Many developed countries opposed to the Rio principle of CBDR being mentioned in many places in the draft. They say that Rio principles can be reaffirmed in the second chapter of the draft in reaffirming Rio principles and there is no justification for CBDR being singled out for reference in various parts of the document. G 77 opposed this saying that, there is a definite justification for commitment to CBDR and its reference in specific parts of the zero draft.

### **Green Economy in the context of Sustainable Development and Poverty Eradication**

The developing countries want emphasis on poverty eradication and integration of the social pillar, and reform of the economic governance in preference to coming up with a road map on green economy. They also want reaffirmation to the failure of current economic system, which the US, Canada, Japan and New Zealand opposed. The G77 proposals calling for reforms in global economic governance, including in the financial system and architecture and the need to continue to work towards a new international economic order, was also met stiff resistance by the US, Canada, Japan, the European Union and New Zealand who wanted it to be deleted. The common refrain of the developed countries is that UNCED is not the right forum to talk about economic governance, and the focus has to be on the sustainable development.

The G77 proposal that “Green economy policies in the context of sustainable development and poverty eradication should be developed with respect to the right to development of each country..... while allowing for the eradication of poverty and hunger, the achievement of social equity while reducing inequalities, and reducing environmental degradation with a view to reestablish harmony with the nature.....” and “efforts should be supported by an effective international cooperation through technology transfer, capacity building and financial resources on favourable terms, in accordance with the commitments made at the major United Nations Conferences and Summits on sustainable development,” was also fiercely opposed by the developed countries including the US and Japan who wanted the “right to development” bracketed while the EU, New Zealand, Switzerland, US and Canada called for deletion of the reference to international cooperation on technology transfer, capacity building and financial resources.

The EU is keen to have “a global green economy roadmap, with deadlines for specific goals, objectives and concrete actions at the international level in a specific number of crosscutting and thematic areas.” This proposal was not agreed to by Canada, the US, and New Zealand.

### **Institutional Framework for Sustainable Development (IFSD)**

Three proposals to strengthen ECOSOC, establish a Sustainable Development Council (SDC) and enhancing UNEP’s mandate, each has its own advantage and disadvantages. While developing countries are focused more on having an institution, which is more capable, effective, and transparent even at the cost of having a new institution, developed countries are more in favour of augmenting existing institution rather than having a new one. It might also be because of the fact that developed countries have to shoulder the financial burden for a new institution!

For the developing countries the strengthening and reform of the institutional framework is viewed as “not an end in itself but a means to achieve sustainable development, and should lead to the balanced integration of the three dimensions and mainstreaming of sustainable development, without putting any additional burden on developing countries or posing an obstacle to their development prospects and respecting their national priorities and policy space.” It also believed that the IFSD should have two overall functions: implementation of sustainable development and integration of the three pillars of sustainable development (social, environmental, economic). The proposal for the SDC put forward by Switzerland, supported by Liechtenstein and the Republic of Korea did not find favour with EU, Japan, Mexico and Russia.

The EU supported the proposal to “...establish a UN specialized agency for the environment based on UNEP with a revised and strengthened mandate, supported by stable, adequate and predictable financial contributions and operating on an equal footing with other UN specialized agencies. This agency, based in Nairobi, would cooperate closely with the UN system and other specialized agencies. This proposal was opposed by US, Canada, Japan, and the Russian Federation.

G77 again brought up the issue of the reform of the “international financial system, including through an ambitious and expeditious reform of the Bretton Woods institutions, particularly their governance structures, based on the full and fair representation of developing countries, in order to address the democratic deficit in those institutions and improve their legitimacy; and ...support developing countries in the implementation of activities for sustainable development including through the provision of resources, without conditionalities,” which was opposed by EU, the US, Japan, Canada, New Zealand and the Republic of Korea.

G77 proposal to set up an international transfer of technology mechanism under UNGA was also opposed by the EU, Japan, Canada, New Zealand and the US. Many country groups including the G77, the EU and the US have reserved their opinion on the IFSD.

### **Sustainable Development Goals (SDGs)**

The proposal for devising sustainable development goals (on the lines of MDGs) was put forward by Columbia and Guatemala. The idea is to merge the MDGs with SDGs after its expiration in 2015. The SDGs will be voluntary and implemented by all states unlike MDGs, which were implemented mainly in developing and poor countries alone). The discussion on and the process of devising and on SDGs have proceeded faster than the Rio+20 process itself, and it creates apprehension among many about the fact that the entire process has been reduced only to coming up with the SDGs, which substantially undermines the other critical issues related to the Rio+20 and other development objectives associated with the process. Most of the countries favor having SDGs but sharp differences exist on the approach,

contents, and implementation of the goals. There is not much clarity on when and how these goals will be determined, and it might not be possible to come up with the goals before the UNCSD Meeting at Rio itself. However, it is presumed that an agreement will be achieved at Rio+20 to go ahead with SDGs and it will launch a process under a working group to finalize the goals.

G 77 came up with a number of principles which should be guide SDGs including, achieve poverty eradication, integrate in a balanced manner the three dimensions of sustainable development, respect the sovereignty of States over their natural resources in accordance with the UN Charter and principles of international law, without causing damage to the environment of other States or of areas beyond the limits of national jurisdiction, be consistent with the Rio principles particularly the principle of CDBR, ensure the implementation of Agenda 21 and JPOI, and the outcomes of all UN major summits in economic, social and environmental field, shall include means of implementation for developing countries, including under each goal, not place additional restrictions or burdens on developing countries or dilute responsibilities of developed countries, and contribute to fulfill the right to development and achieving equity at all levels. Many countries including Switzerland wanted the reference to poverty eradication deleted.

### **Means of implementation**

Means of implementation is likely to highly contested area. While Rio committed to make available finance and technology available to developing countries and developed countries committed to provide 0.7% of their GDP (decided by Monterrey consensus) to the developing countries, that promise remains unfulfilled. As a matter of fact migration of resources from south to the north is many times more than the ODA from north to south. Means of implementation requires desirable changes finance, technology and trade.

**Finance:** The G77 called for “the fulfillment of all ODA commitments, including the commitments by many developed countries to achieve the target of 0.7 per cent of GNP for ODA to developing countries by 2015 ...To reach their agreed timetables, donor countries should take all necessary and appropriate measures to raise the rate of aid disbursements to meet their existing commitments...” The EU, US, Switzerland, Japan and Canada called for a deletion of this proposal.

The G77 also called for the urgent and timely fulfillment of financial commitments made by developed countries in the context of the United Nations Framework Convention on Climate Change. It called for the reaffirmation that financing for climate change should be new, additional and independent of ODA. Such financing should not substitute ODA. Funding provided by developed countries for their own mitigation actions should also not be considered as financing for poverty eradication. The EU, US, Switzerland, Japan, Canada and New Zealand wanted this deleted.

**Technology:** Technology along with finance is a major bone of contention and major fault line in North South divide. The proposal of the G77 made to enhance access of developing countries to technologies, know-how and expertise to achieve sustainable development, was opposed by the US, the EU, and Japan.

Patents and IPR regime has been a big obstacle to developing countries access and be able to use technology, it has been raised a number of times in the UNFCCC Conference, without any desired response by the Annex 1 countries. The proposal of the G 77 that “consideration must also be given to the role of patent protection and intellectual property rights along with an examination of their impact on the access to and transfer of environmentally sound technology, in particular to developing countries as well as to further exploring efficiently the concept of assured access for developing countries to

environmentally sound technology in its relation to proprietary rights with a view to developing effective responses to the needs of developing countries in this area,” was opposed by Canada, while the US, Japan, Switzerland, New Zealand and the EU reserved their position on this.

**Trade:** While the Doha Round of the WTO has been still inconclusive many of the environmental agreements and trade agreements are seeking to incorporate WTO+ provisions. The developing countries fear that their products and services will be hit in the western markets on the ground of not being in compliance with the utmost environmental safeguards and guidelines, which they due to constraints of finances and technology are unable to implement immediately. The developing countries have been insisting against bringing up any WTO + provision in the zero draft.

The G77 made a proposal stressing “...the need to refrain from adopting any measures or restrictions related to trade and transit that affects the access of developing countries to medicines, specially generic medicines and medical equipment.” The proposal was opposed by Norway, US, the Republic of Korea, Japan, EU and Canada, who wanted this proposal to be deleted.

Apprehensions of the developing countries, regarding WTO + provisions was made a reality with the proposal of the Switzerland, which proposed “We acknowledge that trade rules and environmental protection are interdependent and mutual supportive components of a green economy. Both MEAs and WTO Agreements constitute legitimate bodies of international law of equal standing. Due respect must be accorded to each and their respective expertise in environment and trade matters shall be valued and utilized. We recognize the importance of ecological transparency in markets to promote resource efficiency and sustainable consumption and production. We urge the WTO to allow a different treatment of like products and like services based on process and production method criteria that are themselves based on internationally recognized standards.” However, the proposal was opposed by G 77 and also by Australia, New Zealand, Norway, the US and the EU.

#### **Few other important concerns**

**Food Security and Nutrition:** Though the zero draft contains reference to food security and nutrition both in the preamble as well as in the key thematic areas, and it is listed as first key thematic areas. However, priority has slipped substantially between the period of compilation of the zero draft and the third intersessional. Developed countries now find it too difficult to guarantee and hence to remove it.

The reference to the “Right to food and proper nutrition” are sought to be deleted and the “Right of everyone to have access to safe, sufficient and nutritious food...” are suggested to be bracketed. Many of the developed countries are also opposed to references like “specific attention must be paid to challenges faced by poor smallholders, women and youth including their participation in decision-making...” or “Promoting access to land particularly for women, indigenous peoples and other vulnerable groups,” or “Regulating financial and commodity markets to address price volatility.” However, developed countries remain largely in favour of proposals on “increasing agricultural productivity” or “Improving access of small farmers to global markets” or “promoting open and transparent markets; ... promoting secure rights to land and natural resources, ...”

This is despite the fact that Mr. Olivier De Schutter, UN Special Rapporteur on the right to food, has appealed to reaffirm the right to food and clarify its implication in the zero draft. The recognition (to right to food in the zero draft) “should be completed with better reflection of the definition of the right to food, which emphasizes the importance of access (physical and economic) to food. Furthermore, in addition to a restatement of the definition of the right to food, its implications need to be clearly expressed in the Rio+20 Outcome Document”, he emphasized.

**Water and sanitation:** A proposal moved by Denmark, the EU chair, and supported strongly by Canada, New Zealand and UK sought to change the language in the Para 67 of the Zero Draft, which seeks to ensure right to water and sanitation, to “non-discriminatory access to water and/or universal access to basic sanitation.” The countries moving the amendment say that sanitation has not been defined and it might be impossible to ensure universal access to the right to water and sanitation. The move was opposed by the G77, which in its proposal took the precise language from the original General Assembly Resolution recognizing the human right to water. The water is enshrined in many international human rights treat including the Universal Declaration on Human Rights (1942) and European Convention on Human Rights (1950), besides United Nations General Assembly Resolution (2010).

**Climate Change:** The UNCSD Summit will not discuss climate change as it is felt that that UNFCCC is a more appropriate track, which has more competence to deal with climate change. While many developed countries do not want to discuss climate change as they are short to fulfillment of their commitments, developing countries too, are in favor of not opening many fronts at the same time. It is also believed that major developing countries like India, China, Brazil, South Africa who are under intense pressure from the developed world and also under Durban Platform on enhanced ambitions, to make commitments for emission reduction would not themselves like to be targeted again.

**Energy:** Simultaneous with the Rio+20 process, the United Nations Secretary General has launched special initiative titled “Sustainable Energy for All.” The process relies heavily on business and private sector for making modern energy accessible to all. However, it also fails to understand the political economy of energy, the cliché of modern energy, tradeoff between energy production, energy efficiency and equitable access to energy.

### **Conclusion**

The zero draft though substantially expanded in the number of pages has been actually pruned as far as the rights are concerned. Developed countries have made every effort possible to remove the language of the rights and remove prescriptive language. Not only that, all references to poverty eradication (remains only in the form of extreme poverty) and references to right to development, which were supposed to be the proceeding point for Rio+20 are being thrown out. Thrown out along with them are the principles which deified Rio, equity, justice, CBDR, no harm, polluter pays, all suffer the onslaught of the neo capitalists. Is this really the future we want!

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