Institutional Aspects of Financing Sustainable Development After the Johannesburg Summit of 2002

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I. Introduction

The Bretton Woods Institutions and the World Trade Organization are making headway into UN sustainable development territory. Financial stability and security, economic growth, market access, and good governance at the international and the national level now determine the discussion on financing for sustainable development. This is due in large part to the Monterrey Consensus, which was adopted in March 2002 at the UN International Conference on Financing for Development,[1] and to regional initiatives like the New Partnership for African Development established in 2001. Following closely on the Monterrey conference, the 2002 UN Johannesburg World Summit on Sustainable Development[2] began to detail the steps needed to coordinate the activities of international financial institutions that pursue sustainable development goals. The article begins with a brief presentation of the Millennium Development Goals acknowledged by the UN Member States at the 2000 Millennium Summit in New York and the 2002 Monterrey Consensus, two main relevant documents leading up to the Johannesburg Summit on Sustainable Development[3] (II.). National and international institutions of Financing for Development are intended to carry out the Johannesburg Plan of Implementation

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1 The UN International Conference on Financing for Development, 18-22 March 2002, in Monterrey, Mexico, official website: <http://www.un.org/esa/Financing for Development/>. Unless otherwise noted, all websites cited herein were last visited on 3 March 2003.

2 The UN World Summit on Sustainable Development, 26 August – 4 September 2002, in Johannesburg, South Africa, official website: <http://www.Johannesburgsummit.org>. Some 22,000 persons participated, 10,000 of which were delegates accredited by the UN. See <http://www.Johannesburg-summit/faqs.html#joburg15>.

3 Two other outcomes were the Johannesburg Declaration and the Partnership Commitments. The Johannesburg Declaration on Sustainable Development of 4 September 2002, A/CONF.199/20, 1, contains but few statements relevant to financing (see, e.g. para. 18. "... we will work together to assist one another to gain access to financial resources, benefit from the opening of markets, ensure capacity building ..."; and para. 14 refers to the "... rapid integration of markets, mobility of capital and significant increases in investment flows around the world have opened new challenges and opportunities for the pursuit of sustainable development"). Commitments to partnership activities and initiatives, involving governments and other "stakeholders" are designed to "implement sustainable development" at national, regional and international levels. Some 60 partnerships were announced at Johannesburg, including major initiatives by the European Union, France, Germany, the UK and the US. See <http://www.Johannesburg/faqs.html#joburg15>.

(III.). A study of the structural issues facing the major international institutions and Funds involved in Financing for Development, the World Bank, the IMF, the WTO, and the Global Environment Facility and World Sustainability Fund follows (IV.). While the strategies and mechanisms carried out within the institutional framework of Financing for Development, such as partnerships for development, contingent credit lines, debt restructuring or untying aid, are important, these are addressed below if at all only as examples of how the relevant international institutions function.[4] The article concludes that the Johannesburg Summit was significant for the institutions of Financing for Development because it provides a model for mandate driven, expertise based cooperation between different generations and categories of international organizations (V.).

II. The Instruments

Under the functional concept of Financing for Development, the objective of the Millenium Development Goals, the Monterrey Consensus, and, absorbing the contents of the previous UN documents and adding the sustainability aspect, the Johannesburg Plan of Implementation aligns the objective of securing the flow of financial resources to developing countries with strategies and mechanisms and the institutions of the trading and financial system.[5] The documents reflect the modern approach of building on and re-directing existing institutions, their mandate and their expertise rather than setting up new ones.

1. The Millennium Development Goals (2000)

The eight Millennium Development Goals of 2000 of the United Nations[6] distil the most important aspects of ten years of development-related agreements and resolutions adopted at UN conferences. The goals are considered a framework for measuring progress in "the efforts of the world community on achieving significant, measurable improvements in people's lives".[7] Goal Eight involves "Develop[-ing] further an open, rule-based, predictable, non-discriminatory trading and finan-

[4] New strategies for Financing for Development are discussed in a separate article in this volume, see Nele Matz, New Strategies for Environmental Financing?, 503 et seq.

[5] Plan, para. 76. "Mobilizing and increasing the effective use of financial resources and achieving the national and international economic conditions needed to fulfil internationally agreed development goals, including those contained in the Millennium Declaration, to eliminate poverty, improve social conditions and raise living standards and protect our environment, will be our first step to ensuring that the twenty-first century becomes the century of sustainable development for all."

[6] The eight goals are to: Eradicate extreme poverty and hunger. Achieve universal primary education. Promote gender equality and empower women. Reduce child mortality. Improve maternal health. Combat HIV/AIDS, malaria and other diseases. Ensure environmental sustainability. Develop global partnerships for development. See <http://www.un.org/millenniumgoals/> and A/Res/55/2. United Nations Millennium Declaration.

cial system".[8] This eighth goal contained four sub-headings setting out strategies and mechanisms of Financing for Development: Official Development Assistance,[9] market access,[10] debt sustainability[11] and "other", not directly financial, i.e. youth employment, affordable access to essential drugs, and availability of new information and other technologies. The indicators for each sub-heading are to be monitored separately for the least developed countries: Africa, land-locked countries, and small island developing states. Market access indicators[12] necessarily include items that are both contained within and fall outside of WTO's purview: non-arms export duties and quotas, tariffs and quotas on agricultural products, textiles and clothing, as well as domestic and export agricultural subsidies in OECD countries. Debt sustainability indicators[13] involve debt relief, service and cancellation, especially for the 24 heavily indebted poor countries – and thus clearly impact policies and practices of the Bretton Woods Institutions.[14] The World Bank estimates that implementing the eight goals will cost $US 40-60 billion over fifteen years.[15]

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[7] See World Bank, Millennium Summit Documents (introductory comments) <http://wbln0018.worldbank.org/essd/extfoundations.nsf/e5cfaca134b02cbb852568c5006e2093/81d57f272b176bd485256bdd005a406b?OpenDocument>.

[8] Ibid., Goal 8.

[9] Ibid.: "Address the special needs of the least developed countries (includes tariff- and quota-free access for exports enhanced program of debt relief for HIPC and cancellation of official bilateral debt, and more generous ODA for countries committed to poverty reduction)."

[10] Ibid.: "Address the special needs of landlocked countries and small island developing states (through the Barbados Programme and 22nd General Assembly provisions)" [reference is to the Barbados Programme of Action for the Sustainable Development of Small Island Developing States, contained in A/CONF.167/9, part I, Annex I (1994), Report of the Global Conference on the Sustainable Development of Small Island Developing States, Bridgetown, Barbados, 25 April – 6 May 1994].

[11] Ibid.: "Deal comprehensively with the debt problems of developing countries through national and international measures in order to make debt sustainable in the long term."

[12] Ibid.: "Proportion of exports (by value, excluding arms) admitted free of duties and quotas; Average tariffs and quotas on agricultural products and textiles and clothing; Domestic and export agricultural subsidies in OECD countries; Proportion of ODA provided to help build trade capacity."

[13] Ibid.: "Proportion of official bilateral HIPC debt cancelled; Debt service as a percentage of exports of goods and services; Proportion of ODA provided as debt relief; Number of countries reaching HIPC decision and completion points."

[14] See, e.g., IMF, International Development Association, The Enhanced HIPC Initiative and the Achievement of Long-Term External Debt Sustainability, Prepared by Staff of the International Monetary Fund and the International Development Association, approved by Timothy Geithner and Gobind Nankani, 15 April 2002.

[15] World Bank News Release No. 2002/212/S, 20 February 2002, available at <http://wwwxxx/81e7fb4c3d8bba3f85256b660067b411.html>. Other estimates fall in this range, e.g. $US 50 billion, see Executive Summary, Official Development Assistance, in A/55/1000 Executive Summary of the report of the High-level Panel on Financing for Development, 26 June 2001 (chair Ernesto Zedillo, former President of Mexico), available at <http://wwwun.org/esa/ffd/a55-1000.pdf>.

2. The Monterrey Consensus (2002)

The March 2002 Monterrey UN International Conference on Financing for Development was the first time that the World Bank, the IMF and the WTO actively participated in a UN conference, and that a UN conference discussed in detail and adopted statements on subjects for which the Bretton Woods Institutions are traditionally responsible.[16] Refining the Millenium Goal's approach, the Monterrey Consensus identifies six areas for Leading Actions relevant to financing sustainable development.[17] The first five are: Domestic financial resources (paras. 10-19); International financial resources – that is, foreign direct investment and other private flows (paras. 20-25); International trade as an engine (paras. 26-38); External debt reduction (paras. 47-51); and Systemic issues "enhancing the coherence and consistency of the international monetary, financial and trading systems in support of development (paras. 52-67)".[18] The first two issues have been characterized as "northern" concerns, the last three as "southern", and the split between them as representing the ongoing debate between the "form" and the "context" of Financing for Development.[19] The sixth area of the Monterrey Consensus, International financial and technical cooperation (paras. 39-46), focuses heavily on trade related technical assistance and capacity building, claiming that these help make possible, *inter alia*, "the meaningful and full participation of developing countries, especially the least developed countries, in multilateral trade negotiations".[20] Technical assistance and capacity building is actually one

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[16] High-level meetings between ECOSOC and the Bretton Woods Institutions began in 1998 in the aftermath of the Asian financial crisis, originating with General Assembly Res. 50/227 (see <http://www.un.org/esa/coordination/ecosoc/Bretton Woods Institutions.htm>). But in 2001 at Monterrey, as Michael Hofmann/Rolf Drescher, The Monterrey Consensus. A New Development Partnership, D+C Development and Cooperation (No. 4, July/August 2002, 4-5, 26) point out: "New for a UN conference was the active participation of the World Bank, the International Monetary Fund (IMF) and the World Trade Organisation (WTO). Tying them in early during the preparatory process contributed to the conference's success in two ways. First, the different discussion and negotiation cultures of the UN (New York) and Bretton Woods Institutions (Washington) came closer to each other. Second, for the first time a UN conference dealt in detail with subjects which come under the areas of responsibility of the Bretton Woods Institutions and also adopted them in the final document. This meeting of minds is a crucial precondition for greater coherency."

[17] The full text of the Monterrey Consensus, pp. 1-25 in the Report of the Conference, A/CONF.198/11, is available at the conference's home page <http://www.un.org/esa/ffd/> and also at the US State Department web site <http://wwwusstate.gov%20mont02032205.htm>.

[18] Emphasis added. The Monterrey Consensus begins at p. 1 of the Report of The UN International Conference on Financing for Development, Monterrey, Mexico, 18-22 March 2002, A/CONF.198/11.

[19] Tariq Banuri/Erika Spanger-Siegfried, Strengthening Demand: A Framework for Financing Sustainable Development, in: IIED, Opinion May 2001: "In other words, there is a schism running through the agenda, with one group focusing on forms of finance, and the other on the context of finance." The authors argue persuasively for the need to focus on the demand side of Financing for Development, to reduce risk of small scale investment, increase legitimacy of Official Development Assistance in donor countries, and to replace charity with access (market and other access), available at <www.iied.org/pdf/wssd_10_finance.pdf>.

area in which "southern" and "northern" interests merge. For example, the Monterrey Consensus also sees strengthened technical assistance as critical to external debt management and sustainable debt financing[21] "southern", for national efforts at capacity building in areas such as institutional infrastructure, financial regulation and supervision, basic education and early warning and crisis prevention[22] "northern", creating a stable investment climate[23] "northern", and making Official Development Assistance more effective[24] "southern". Given the importance of technical assistance to the goals of the Monterrey Consensus, the parties agree to "ensure that the long-term resources at the disposal of the international financial system, including regional and subregional institutions and funds"[25] allow them adequately to fund technical assistance and other programs. The extensive section of the Monterrey Consensus devoted to "Addressing systemic issues" opens by calling for enhanced "coherence, governance and consistency of the international monetary, financial and trading systems", notably as a complement to national development efforts. In the same section tasks are implicitly split at the international level between "improved global economic governance and a strengthened UN leadership role in promoting development".[26] It calls for increased transparency and inclusiveness in the reform of the international financial architecture, a major objective of which the Consensus views as enhanced financing for development and poverty eradication.[27] Again stressing the national element, it also specifies that "sound domestic financial sectors ... [are] an important component of an international finan-

[20] Monterrey Consensus, para. 38, continues: "In particular, developing countries need assistance in order to participate effectively in the World Trade Organization work programme and negotiating process through the enhanced cooperation of all relevant stakeholders, including the United Nations Conference on Trade and Development, the World Trade Organization and the World Bank. To those ends, we underscore the importance of effective, secure and predictable financing of trade-related technical assistance and capacity-building."

[21] Monterrey Consensus, para. 47: "Domestic preconditions for debt sustainability, including sound macroeconomic policies and public resource management"; "Debtors and creditors must share the responsibility for preventing and resolving unsustainable debt situations. Technical assistance for external debt management and debt tracking can play an important role and should be strengthened."

[22] Monterrey Consensus, para. 19: "Institutional infrastructure, human resource development, public finance, mortgage finance, financial regulation and supervision, basic education in particular, public administration, social and gender budget policies, early warning and crisis prevention, and debt management."

[23] Monterrey Consensus, para. 21.

[24] Monterrey Consensus, para. 43.

[25] Monterrey Consensus, para. 46.

[26] Monterrey Consensus, para. 52: "In order to complement national development efforts, we recognize the urgent need to enhance coherence, governance, and consistency of the international monetary, financial and trading systems. To contribute to that end, we underline the importance of continuing to improve global economic governance and to strengthen the United Nations leadership role in promoting development. With the same purpose, efforts should be strengthened at the national level to enhance coordination among all relevant ministries and institutions. Similarly, we should encourage policy and programme coordination of international institutions and coherence at the operational and international levels to meet the Millennium Declaration development goals of sustained economic growth, poverty eradication and sustainable development." Emphasis added.

[27] Monterrey Consensus, para. 53.

cial architecture that is supportive of development". Many of the topics already addressed as systemic issues appear again at the close of the section, under the rubric of "good governance" at all levels. The increased interdependence and legitimacy necessary for good governance require "broadening the base for decision-making on issues of development concern and filling organizational gaps," strengthening the UN system and other multilateral institutions, and encouraging "all international organizations to seek to continually improve their operations and interactions".[28] Turning to institutional issues, the "first priority" in addressing systemic issues is to "further enhance the effective participation of developing countries and countries with economies in transition in international dialogues and decision-making processes".[29] The IMF and World Bank are called on to do so, and the WTO "to ensure that any consultation is representative of its full membership and that participation is based on clear, simple and objective criteria"; similarly the Bank for International Settlements, Basel Committees and Financial Stability Forum are to continue regional outreach and to review their membership "to allow for adequate participation" of developing countries; and "Ad hoc groupings that make policy recommendations with global implications" to improve outreach to non-member countries, and "to enhance collaboration with the multilateral institutions with clearly defined and broad-based intergovernmental mandates".[30] Each institution so addressed is called on to carry out the tasks within its respective mandates and means. Central to the Monterrey Consensus is the notion that inter-institutional coordination is the key to improved Financing for Development. The concrete actions spelled out in the "Staying engaged" section involve making substantive connections between the several institutions involved in Financing for Development. It suggests restructuring the "current high-level dialogue on strengthening international cooperation for development through partnership" which is held every two years in the General Assembly.[31] The Dialogue would continue to consider the financing for ECOSOC development-related reports and other development-related issues. But it would be "reconstituted to enable it to become the intergovernmental focal point for the general follow-up to the Conference and related issues". Relevant stakeholders would participate to discuss implementing the results of the Monterrey Consensus.[32]

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[28] Monterrey Consensus, para. 61.

[29] Monterrey Consensus, para. 63.

[30] Monterrey Consensus, para. 63.

[31] Monterrey Consensus, para. 69.

[32] The last high-level dialogue took place on 20-21 September 2001 in New York, under the rubric of: "Responding to globalization: facilitating the integration of developing countries into the world economy in the twenty-first century". See General Assembly Resolution A/54/213. Renewal of the dialogue on strengthening international economic cooperation for development through partnership, available at <http://esa.un.org/Financing for Development/policydb/PolicyTexts/GA-8.htm>; and Press Release DSG/SM/141, DEV/2341 <http://www.un.org/News/Press/docs/2001/dsgsm141.doc.htm>. See also A/RES/57/250, 20 December 2002, dealing with "High-level dialogue on strengthening international economic cooperation for Financing for Development through partnership (October meeting)".

3. The Johannesburg Plan of Implementation (2002)

The Johannesburg Plan of Implementation, agreed to at the close of the Johannesburg World Summit on Sustainable Development in September 2002, broadens the perspective of the development focused Monterrey Consensus by addressing all factors in the sustainability of development: economic development, social development and environmental protection. The Johannesburg Plan specifies that "overarching objectives of, and essential requirements for, sustainable development" are "Poverty eradication, changing unsustainable patterns of production and consumption, and protecting and managing the natural resource base of economic and social development". These three elements are also the first three areas addressed in the Plan, followed by sections on sustainable development in a globalizing world, health and sustainable development, sustainable development of developing States, sustainable development for Africa and other regional initiatives. The Plan closes with consideration of means and institutions for implementation. The 1992 UN Conference on Environment and Development (UNCED), its Agenda 21, and the ensuing decade of conferences and international agreements were the institutional predecessors and inspiration for the 2002 Johannesburg Summit and its Plan of Implementation. The Plan reiterates commitment to full implementation of Agenda 21 and to achieving international development goals as stated in the 2000 Millennium Development Goals and other agreements, based on Principle 7 of the Rio Declaration of common but differentiated responsibilities.[33] Specific instruments relating to financing sustainable development named in the Johannesburg Plan include the Monterrey Consensus and "programmes of action adopted at the Third United Nations Conference on the Least Developed Countries,[34] and the Global Conference on the Sustainable Development of Small Island Developing States,[35] and relevant international agreements since 1992, particularly those of the [Monterrey] International Conference on Financing for Development and the Fourth WTO [Doha] Ministerial Conference".[36] References to these instruments appear throughout the Johannesburg Plan, with those most relevant to Financing

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[33] Plan, para. 1. Rio Principle 7 is reiterated and reproduced in the Plan, Chapter IX, Means of Implementation, in para. 75. The version of the Plan used in this article is the Advanced Unedited Text of 5 September 2002, in which a note to chapter IX provides: "Because the structure of chapter IX was changed in the course of negotiations, so that its paragraph numbering no longer corresponds to the earlier version contained in document A/CONF.199/L.1, Latin ordinal numbers (*bis*, *ter*, etc.) are used after paragraph 119 until the end of the chapter in order not to disrupt the paragraph numbering of the following chapter, which was not so changed."

[34] Programme of Action for the Least Developed Countries for the Decade 2001 – 2010 by the Third United Nations Conference on the Least Developed Countries, held in Brussels from 14 – 20 May 2001. For the Programme see A/CONF.191/11; for the related Brussels Declaration, see A/CONF.191/12.

[35] See Draft Declaration of Barbados, A/CONF.167/L.4/Rev.1, 5 May 1994, Global Conference on the Sustainable Development of Small Island Developing States, Bridgetown, Barbados, 25 April – 6 May 1994.

[36] Plan, para. 75.

for Development appearing in the sections dealing with Patterns of Consumption and Production (Part III), with Implementation (Part IX) and with the Institutional Framework for Sustainable Development (Part X). The financing aspect is thus integrated into the substance of the Plan.

III. Implementing Sustainable Development by Means of Internal (National) and External (International and Regional) Financing

In the section devoted to Means of Implementation, Part IX, the Johannesburg Plan stresses that the agreed sustainable development goals, including those contained in the Millennium Declaration and Agenda 21, will require significant increases in the flow of financial resources to developing countries.[37] Along the lines of the Monterrey Consensus, the Plan identifies internal (domestic) and external sources of such financing. Emphasis on national self-responsibility, rooted in the Monterrey Consensus, appears in the chapter's opening paragraph, which states that successful implementation must be (quoting the Consensus verbatim) "based on the recognition that each country has primary responsibility for its own development and that the role of national policies and development strategies cannot be overemphasized".[38] The Johannesburg Plan identifies domestic financial policy as the first "critical challenge", namely the challenge of ensuring "the necessary internal conditions for mobilizing domestic savings, both public and private, sustaining adequate levels of productive investment and increasing human capacity".[39] While it still emphasizes that the international community must help individual nations improve their domestic policies, the Johannesburg Plan of Implementation nonetheless confirms the new emphasis on national responsibility that has been growing over the 1990s and achieved central significance to Financing for Development in the process that culminated in the Monterrey Consensus.

Referring to specific implementation actions "at all levels", para. 80 identifies the existing mechanisms and institutions available for Financing for Development, starting with the international financial architecture and its reform, para. 80(a), followed by stable international financial flows, para. 80(b). These subparagraphs make clear that both components require participation of national and interna-

[37] Such flow of resources will allow use of improved trade opportunities, access to and transfer of environmentally sound technologies on a concessional or preferential basis, as mutually agreed, education and awareness-raising, capacity-building, and information for decision-making and scientific capabilities.

[38] Plan, para. 75. The Monterrey Consensus provides: "6. Each country has primary responsibility for its own economic and social development, and the role of national policies and development strategies cannot be overemphasized." See also Plan, para. 146: "Each country has the primary responsibility for its own sustainable development, and the role of national policies and development strategies cannot be overemphasized."

[39] Plan, para. 77.

tional players, of donor and recipient countries. Para. 80 also lists international organizations and agencies, para. 80(c), the private sector, para. 80(d), and public/private cooperation, para. 80(e) as part of the existing financial institutions available for Financing for Development. Paras. 81-83 identify the external sources of financing for development, including foreign direct investment, official development aid, full use of the existing international financial mechanisms and institutions, the third replenishment of the GEF[40], special drawing rights allocations for development purposes, the reduction of unsustainable debt burden, the enhanced heavily indebted poor countries initiative, and trade. It is here that attention is drawn to the Bretton Woods Institutions, the WTO, and the UN and related agencies. Notwithstanding the importance of self-driven national financial responsibility as a new factor in the Financing for Development equation, the remainder of this article will focus on these, the international institutions for Financing for Development.

IV. International Institutions

The Johannesburg Plan of Implementation sees the "full and effective use of existing financial mechanisms and institutions, including through actions at all levels" as a necessary means of implementation of the goals of sustainable development, according to the Johannesburg Plan of Implementation, para. 80. The important point is here, first of all, the emphasis on the existing institutions implying that there is no need for creating new ones. The Plan's approach to the organization of the current institutions then is threefold. The Johannesburg Plan of Implementation addresses the international institutions of Financing for Development by advancing certain principles for their operation (1.). The principles include integrating sustainable development objectives into institutional goals and operations, coordination and collaboration between institutions, and good governance. Through these operational principles, the Johannesburg Plan of Implementation seeks to ensure that the action of the institutions pertaining to the International Financial Architecture (2.) and to the international trading system (3.) efficiently further sustainable development. The Johannesburg Plan places ECOSOC in a central coordinating role for sustainable development institutions (4.).

1. Principles of Operation

Part IX of the Johannesburg Plan envisages that measures taken at all institutional levels should lead to achieving mainly the four objectives of sectoral integra-

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[40] Which replenishment was approved in October 2002, see Joint Summary of the chairs, GEF Council Meeting, 14-15 October 2002, paras. 13 ff., available at <http://www.gefweb.org/Joint_Summary_of_the_Chairs_-_final.pdf>.

tion, resource mobilization, institutional coordination, and efficiency: Integration of the economic, social and environmental dimensions of sustainable development; mobilization of financial and technological resources as well as capacity building programmes, particularly for developing countries; coordination, coherence and monitoring of institutional efforts; and effectiveness and efficiency through limiting overlap and duplication of activities of international organizations, within and outside the UN system, based on their mandates and comparative advantages. The emphasis on each institution's mandate as defining its role in financing sustainable development is repeated throughout the Plan.[41] Taken together with relevant statements in other parts of the Plan, three basic operational principles can thus be identified that apply across the institutional board of Financing for sustainable development: good governance, integration and coherence, collaboration and coordination.

A. Good Governance

Under the Plan, a substantive overarching operational principle is good governance of which four areas emerge: good governance generally, environmental governance, economic governance, and trade governance. Good governance generally "within each country and at the international level" is deemed at the very outset of the Plan as being "essential" to sustainable development (para. 4). In discussing implementation, para. 123 provides: "Good governance at the international level is fundamental for achieving sustainable development. In order to ensure a dynamic and enabling international economic environment, it is important to promote global economic governance through addressing the international finance, trade, technology and investment patterns that have an impact on the development prospects of developing countries. To this effect, the international community should take all necessary and appropriate measures, including ensuring support for structural and macroeconomic reform, a comprehensive solution to the external debt problem and increasing market access for developing countries." Especially with the last phrase, it is clear that trade organizations have a major role to play in sustainable development, alongside financial institutions. Environmental governance is addressed, *inter alia*, in para. 122(d) of the Plan. This section supports full implementation of the outcomes of Decision I on international environmental governance adopted by the UNEP Governing Council at its seventh special session,[42] and in-

[41] See, e.g. Plan, paras. 19(n), 19(u), 91(a), 120, 121(f), 122(a), 127 and 131(a) [Commission on Sustainable Development], 133, 136, and 137.

[42] UNEP/GCSS.VII/2, 27 December 2001, available at <http://www.unep.org/governingbodies/gc/specialsessions/gcss_vii/>. The segment on 1. Finance, trade and development organizations, p. 29, also mentions the strategy of integrating the desired goals into how various organizations work, in the hope of thereby promoting sustainable development: "130. Concern has been raised about the conflicting goals of large multilateral and bilateral bodies whose negative impact on the environment can compromise efforts towards improving international environmental governance. The solutions put forward to date are: (a) To strengthen processes for integrating environmental considerations into ex-

vites the General Assembly at its fifty-seventh session "to consider the important but complex issue of establishing universal membership for the Governing Council/Global Ministerial Environment Forum". Economic governance and trade governance are treated in a common general section, para. 123, which sets forth consistent organizational principles for international financial architecture and the multilateral trading regime.[43]

B. Integration

The Johannesburg Plan of Implementation builds on the mandates and core expertise of the relevant institutions. Institutions with very different corporate or organizational cultures come together around the core idea of sustainable development, which in turn shapes how they operate day to day and how they plan long term. Integration of the economic, social and environmental dimensions of sustainable development will come about in part through integrating sustainable development goals into the daily operations (and long-term planning) of every international institution in each of these sectors. Thus an economic institution takes into account social and environmental elements, a social institution considers economic and environmental aspects,[44] and an environmental institution looks at social and economic elements of their respective activities. The Plan of Implementation, specifically addressing international economic institutional issues, calls for integration of sustainable development goals into the policies, work programmes and operational guidelines of relevant UN agencies, programmes and funds, the GEF and international financial and trade institutions within their mandates.[45]

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isting international financial, trade, technical and development organizations in an effort to enhance their operations in the pursuit of sustainable development; (b) To develop common environmental guidelines for export credit agencies to encourage integration of environmental considerations into investment decisions; and (c) To take steps to establish a counterpart environmental body to WTO."

[43] "Efforts to reform the international financial architecture need to be sustained with greater transparency and the effective participation of developing countries in decision-making processes." Plan, para. 123. As for trade, the Plan provides that a "universal, rule-based, open non-discriminatory and equitable multilateral trading system, as well as meaningful trade liberalization, can substantially stimulate development worldwide, benefiting countries at all stages of development".

[44] Plan, para. 122(c).

[45] DC2002-0021/Rev1, 25 September 2002, The "Progress Report on Implementing the Monterrey Consensus", p. 20, under Global Actions. The Progress Report was prepared by staff of the World Bank and the International Monetary Fund for the 28 September 2002, 66th meeting of the Development Committee and is available at <http://wbln0018.worldbank.org/DCS/devcom.nsf/(documentsattachmentsweb)/September2002EnglishDC20020021Rev1/$FILE/DC2002-0021Rev1(E)-Monterrey%20Consensus.pdf>. An April 2002 Joint IMF/World Bank Progress Report on Implementing the Monterrey Consensus summarizes well the weight that these and other international organizations place on incorporating sustainable development into daily operations. It lists "Internal mobilisation" among their recent activities and next steps towards achieving the Millennium Development Goals, defining this as "statements from the highest levels providing a consistent message from all agencies on the significance of the MDGs for the work of the UN system; awareness-raising for all staff; training targeted at Resident Representatives/Resident Coordinators, agency Representatives, and programme staff."

C. Coherence, Collaboration and Coordination

While integration looks at the individual institutions, the Plan aims further to strengthen inter-institutional coherence, collaboration and coordination within and between the UN system, international financial institutions, the Global Environment Facility and the WTO. It proposes to do so by utilizing the UN Chief Executive's Board for Coordination, the UN Development Group, the Environment Management Group and other inter-agency coordinating bodies. Inter-agency collaboration is to be pursued in all relevant contexts, with special emphasis on the operational level and involving partnership arrangements on specific issues to support, in particular, developing countries' efforts in implementing Agenda 21. Para. 133 of the Johannesburg Plan deals specifically with the need for increased coordination between international financial institutions.[46] This is fleshed out in the Plan's provisions encouraging rapprochement between Bretton Woods and UN cultures, calling on states to "Strengthen cooperation among UNEP and other United Nations bodies and specialized agencies, the Bretton Woods institutions and WTO, within their mandates".[47] The enhanced coordinating role of ECOSOC, including continuing and building on the Bretton Woods Institutions/ECOSOC spring meetings are part of this strengthened coordination effort.[48]

2. The International Financial Architecture

This is first applied to the International Financial Architecture.

A. The International Financial Architecture and Its Reform

"While there is no agreed definition of what constitutes international financial architecture, it refers broadly to the framework and set of measures that can help prevent crises and manage them better in the more integrated international finan-

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[46] Plan, para. 133: "Stress the need for international institutions both within and outside the United Nations system, including international financial institutions, WTO and GEF, to enhance, within their mandates, their cooperative efforts to: (a) Promote effective and collective support to the implementation of Agenda 21 at all levels; (b) Enhance the effectiveness and coordination of international institutions to implement Agenda 21, the outcomes of the World Summit on Sustainable Development, relevant sustainable development aspects of the Millennium Declaration, the Monterrey Consensus and the outcomes of the fourth WTO ministerial meeting, held in Doha in November 2001." Para. 134 continues on coordination generally: "Request the Secretary-General of the United Nations, utilizing the United Nations System Chief Executives Board for Coordination, including through informal collaborative efforts, to further promote system-wide inter-agency cooperation and coordination on sustainable development, to take appropriate measures to facilitate exchange of information, and to continue to keep the Economic and Social Council and the Commission informed of actions being taken to implement Agenda 21."

[47] Plan, para. 136.

[48] Plan, para. 126; see especially para. 126(f) re: joint Bretton Woods Institution/ECOSOC meetings.

cial environment."[49] The concept of an International Financial Architecture and the need to reform it arose in connection with the Asian financial crises of 1997 and 1998,[50] covering issues such as Foreign Direct Investment, debt restructuring, Official Development Aid, the need for policy autonomy of developing countries, etc.[51] The institutions implicated are numerous, for example by one estimate, about a dozen are relevant to Foreign Direct Investment alone, which is just one aspect of Financing for Development.[52] At a very minimum, the World Bank, the IMF and the Global Environment Facility are clearly part of the International Financial Architecture relevant to Financing for Development.[53] The Johannesburg Plan addresses efforts to reform the international financial architecture[54] under the rubric of Good Governance, saying that such reforms "need to be sustained with greater transparency and the effective participation of developing countries in decision-making processes".[55] The Johannesburg Plan of Implementation wants to "strengthen ongoing efforts to reform the existing international financial architecture, to foster a transparent, equitable and inclusive system that is able to provide

49 International Financial Architecture, at <http://www.worldbank.org/ifa/ifa_more.html>. See also International Financial Architecture: An Update of World Bank Group Activities, at the same site.

50 See Yilmaz Akyüz, The Debate on the International Financial Architecture: Reforming the Reformers, April 2000, UNCTAD Discussion Papers, No. 148, available at <http://www.unctad.org/en/docs//dp_148.en.pdf>, 1-3.

51 Literature on the reforming of the International Financial Architecture includes Frank J. García, Humanizing the Financial Architecture of Globalization, Boston College International and Comparative Law Review 25 (2002), 203; Bartram S. Brown, IMF Governance, the Asian Financial Crisis and the New International Financial Architecture – International Law in the Post-Cold War World, 2001, 131-147; Shalendra D. Sharma, Constructing the New International Financial Architecture, Journal of World Trade 34 (2000), 47; Akyüz, *supra* note 50.

52 One publication includes all of the following as "Relevant international institutions" in the question of Foreign Direct Investment, which is but one aspect of the financing spectrum discussed in this paper: "International Finance Corporation and Multilateral Investment Guarantee Agency (World Bank), Industrial Development Organisation (UNIDO), WTO, UNCTAD, Financial Stability Forum (11 national authorities, (G7), World Bank, IMF, OECD, International Regulatory / Supervisory groupings, Committees of Central Bank Experts), UN CSD's *ad-hoc* open-ended technical working group on trade, finance and investment." See Rosalie Gardiner, Foreign Direct Investment: A Lead Driver for Sustainable Development?, Towards Earth Summit 2002, Economic Briefing No. 1, November 2000 (UNED Forum), 8, Table 2. (UNED = UN Environment and Development) UNED Forum is the civil society group known since 2002 as Stakeholder Forum for our Common Future.

53 Clearly regional development banks are also part of the international financial architecture, but they will not be discussed in any detail in this paper. And, while some discussions include the WTO as part of the financial architecture, for the purposes of this paper, the Organization is handled in a separate section devoted to trade, as opposed to finance.

54 The literature on such reform includes Heinrich Böll Foundation (ed.), A Makeover for the Bretton Woods Twins? A Transatlantic Critique of the Meltzer Report and Other Reform Proposals, Washington DC Office, 2000, available at <http://wwwboell.org/docs/IMF.pdf>; see "O'Neill Presses for More IMF and World Bank Reform," The Bretton Woods Committee Newsletter, Spring 2001, <http://www.brettonwoods.org/O'Neillspr01.htm>; and George P. Shultz, One World, One Bank, reprinted from International Economy, January-February 1998, from an article entitled "Merge the IMF and World Bank," available at <http://www.imfsite.org/operations/shultz298.html>.

55 Plan, para. 123, cf. Monterrey Consensus, para. 53.

for the effective participation of developing countries in the international economic decision-making processes and institutions, as well as for their effective and equitable participation in the formulation of financial standards and codes". Reform of the international financial architecture necessarily links reforms at both the national and international level. Reflecting the many facets of such reform, the Monterrey Consensus reminds multilateral financial institutions of their responsibility to pursue international financial stability and crises prevention,[56] to provide policy advice and financing on the basis of "nationally owned paths of reform",[57] and to ensure "the effective and equitable participation of developing countries in the formulation of financial standards and codes".[58] It also calls on multilateral financial institutions to include all stakeholders, national and international, in devising an international debt restructuring mechanism "to promote fair burden-sharing and minimize moral hazard"[59] that is, to develop policies that deter lenders and borrows from risky financial behavior.[60] In addition to the problem of moral hazard, between them, the Monterrey Consensus and the Johannesburg Plan of Implementation acknowledge the connection between peace and development[61] and the need to overcome corruption[62] and terrorism in order to promote sustainable development.[63] Some have suggested that reform of the International Financial Architec-

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[56] Monterrey Consensus, para. 55, by means including short term capital flow surveillance and early warning systems.

[57] Monterrey Consensus, para. 56.

[58] Monterrey Consensus, para. 57. Additionally, capacity building is seen as essential to expanded participation of developing and transition economies in multilateral fora and thus norm-setting and international economic decision-making, Monterrey Consensus, paras. 57 and 62.

[59] Monterrey Consensus, para. 60. Moral hazard refers to policies which make too easy unwise or greed-based decisions on the part of lenders, investors or borrows. Rosalie Gardiner, UNED, Sustainable Finance: Seeking Global Financial Security, Towards Earth Summit 2002, Economics Briefing No. 2, August 2001, available at <http://wwwearthsummit2002.org>.

[60] For example, the IMF Supplemental Reserve Facility created in 1997 should not be viewed by lenders as ensuring payment in the event of any creditor default, no matter how poor the initial lending decision, see International Financial Architecture for 2002: A New Approach to Sovereign Debt Restructuring, Address by Anne Krueger, First Deputy Managing Director, IMF, Given at the National Economists' Club Annual Members' Dinner, American Enterprise Institute, Washington DC, 26 November 2001, available at <http://www.imf.org/external/np/speeches/2001/112601.htm>. It is also necessary to improve transparency of information about financial flows so as to contribute to stability and mitigate impacts of excessive short-term capital flow volatility, para. 80(b); and to improve timeliness and predictability of payments to international organisations and agencies, para. 80(c) of the Plan.

[61] Monterrey Consensus, para. 9: "Recognizing that peace and development are mutually reinforcing, we are determined to pursue our shared vision for a better future, through our individual efforts combined with vigorous multilateral action." See also NEPAD Framework Document, Conditions for Sustainable Development, <http://www.avmedia.at/nepad/indexgb.html>, para.79. "It is generally acknowledged that development is impossible in the absence of true democracy, respect for human rights, peace and good governance." The UN Secretary-General has said: "The need for sustainable, equitable development, in rich and poor countries alike, should be clear to all of us. But let us also devote our energies to taming development's worst enemy – armed conflict, which can extinguish, in days or even hours, years of work to reduce poverty." Press Release SG/SM/8206, ECOSOC/6002, Address of Secretary-General Kofi Annan to the High-Level Meeting of the Economic and Social Council and the Bretton Woods Institutions in New York on 22 April 2002.

ture could involve renegotiating the relationship agreements between the IMF, the World Bank to the UN, as well as introducing such a relationship agreement between the UN and the WTO, in order for the UN better to coordinate and protect jurisdictions of its various agencies and programmes.[64] This raises the interesting prospect of revising or creating binding international commitments between international organizations rather than (directly) between states, and further highlights the nature of solutions to implementing sustainable development as institutional/organizational rather than international in the traditional sense.

Ideally, each institution's participation in the reform of the International Financial Architecture is guided by mandate and experience,[65] which are examined in turn below.

B. IMF

The original mandate of the IMF[66] was to address issues of exchange rate convertibility and stability, and balances of payment (i.e. by providing short term loans

[62] Monterrey Consensus, para. 13: "Fighting corruption at all levels is a priority; it diverts resources."; para. 65: "We commit ourselves to negotiating and finalizing as soon as possible a United Nations convention against corruption in all its aspects, including the question of repatriation of funds illicitly acquired to countries of origin, and also to promoting stronger cooperation to eliminate money-laundering. We encourage States that have not yet done so to consider signature and ratification of the United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25)."

[63] Plan, para. 108 *bis*: "Further resolve to take concerted action against international terrorism, which causes serious obstacles to sustainable development." Monterrey Consensus, para. 66: "We urge as a matter of priority all States that have not yet done so to consider becoming parties to the International Convention for the Suppression of the Financing of Terrorism."

[64] See, e.g., Aldo Caliari, comments reported in: UN International Conference on Financing for Development, Report on Side Event: Towards Improved Governance, Discussion between Governments, the IMF, the World Bank, the European Commission and NGOs on the basis of the proposals made in the Monterrey Consensus Paper, Monterrey, 21 March 2002, 5, available at <http://www.cidse.org/en/tg2/ffd.html>: "In order to enhance the ability of the UN to ensure that international financial and trade institutions fully respect the jurisdiction of other UN bodies, agencies and funds, particularly those with non-economic mandates."

[65] On the expansion of World Bank and IMF mandates and proposed reforms, see, *inter alia*, Daniel Bradlow/Claudio Grossman, Limited Mandates and Intertwined Problems: A New Challenge for the World Bank and the IMF, Human Rights Quarterly 17 (1995), 411; Hans Singer, Effective Global Institutions for the Twenty-first Century, in: J.-M. Griesgraber/B. Gunter (eds.), Rethinking Bretton Woods: From a Historical Perspective, Promoting Development, 1995.

[66] Articles of Agreement of the International Monetary Fund, adopted 22 July 1944, Bretton Woods, entered into force 27 December 1945, 2 UNTS 40 et seq. "Article 1. The purposes of the International Monetary Fund are: i) To promote international monetary cooperation through a permanent institution which provides the machinery for consultation and collaboration on international monetary problems; ii) To facilitate the expansion and balanced growth of international trade, and to contribute thereby to the promotion and maintenance of high levels of employment and real income and to the development of the productive resources of all members as primary objectives of economic policy; iii) To promote exchange stability, to maintain orderly exchange arrangements among members, and to avoid competitive exchange depreciation; iv) To assist in the establishment of a multilateral system of payments in respect of current transactions between members and in the elimination

to countries suffering temporary balance of payments difficulties).[67] The Global Financial Stability Report, published quarterly by the Financial Stability Forum, "assesses conditions and risks in global financial markets, including emerging market financing, from a financial market stability perspective".[68] Another activity of the IMF, financial crisis bailout packages such as those seen in the regional crises of 1997-98, while more closely related to original mandate, is still subject to criticism. It is widely recognized that the IMF mandate has expanded far beyond this short-term macroeconomic focus; in many instances activities in this expanded realm relate to sustainable development.[69]. Calls for refocusing the IMF mandate include replacing crisis bailout packages with better crisis prevention, and resort to a "rule-based rather than discretion-based approach" similar to other rule-based systems, such as the WTO, and NAFTA. Mandate-driven reform of the IMF, under the governance principle of the Johannesburg Plan, would lead to increased transparency, coherence and inclusion of a wider range of stakeholders.

The Johannesburg principles, in particular the integration principle, bear on the IMF role in reforming foreign direct investment.[70] The IMF is responsible for, *inter alia*, helping maintain stable monetary policies worldwide.[71] Reforms in national policies have included "corrective policies: fiscal adjustment, financial sector

of foreign exchange restrictions which hamper the growth of world trade; v) To give confidence to members by making the general resources of the Fund temporarily available to them under adequate safeguards, thus providing them with opportunity to correct maladjustments in their balance of payments without resorting to measures destructive of national or international prosperity; vi) In accordance with the above, to shorten the duration and lessen the degree of disequilibrium in the international balances of payments of members. The Fund shall be guided in all its policies and decisions by the purposes set forth in this Article." Emphasis added.

[67] See, The Financial Economists Roundtable Statement on the Future of the International Monetary Fund, 23 October 2000, <http://www.luc.edu/orgs/finroundtable/statement00.html>.

[68] Ongoing and Recent Work, 10. Further to the Financial Stability Forum see Rosalie Gardiner, Economics Briefing No. 2, 4.

[69] An example of expanded IMF activity is the long-term Poverty Reduction and Growth Facility. Some new activities remain within the IMF mandate, for example, it works with the World Bank as part of the Financial Stability Forum, to conduct ongoing Financial Sector Assessment Programs, in 24 countries as of September 2002. See Ongoing and Recent Work Relevant to Sound Financial Systems, 26 September 2002, Note by the Financial Stability Forum Secretariat (with inputs from various bodies) for the Forum's Meeting on 3-4 September 2002, 9.

[70] Foreign Direct Investment (FDI) is dealt with at length in only two paragraphs of the Johannesburg Plan: Para. 41(a) in the context of sustainable tourism, and para. 78. "Facilitate greater flows of foreign direct investment so as to support the sustainable development activities, including the development of infrastructure, of developing countries, and enhance the benefits that developing countries can draw from foreign direct investment, with particular actions to: Create the necessary domestic and international conditions to facilitate significant increases in the flow of FDI to developing countries, in particular the least developed countries, which is critical to sustainable development, particularly FDI flows for infrastructure development and other priority areas in developing countries to supplement the domestic resources mobilized by them; Encourage foreign direct investment in developing countries and countries with economies in transition through export credits that could be instrumental to sustainable development."

[71] See Articles of Agreement of the International Monetary Fund, Art. I. On the need to apply Foreign Direct Investment more effectively and not just more lavishly, so as to avoid too-rapid growth in less developed countries, see Gardiner, Economics Briefing No. 1.

strengthening, and more flexible exchange rate regimes". For its part, the IMF has increased its monitoring of national economic policies and international markets, moved to improve communication with its members and between lenders and private investors. However, it is precisely this increased monitoring role that draws criticism as expanding the original IMF mandate too far and consolidating too much arbitrary decision-making authority over national policies in the IMF.[72] And tied to approval or disapproval of national policies are IMF programs such as the newly established Contingent Credit Line facility, which offers improved credit to countries which are reforming their national components of the International Financial Architecture and can show that their economic policies are sound. Thus, while improving the conditions for Foreign Direct Investment falls within the original macroeconomic mandate of the IMF to promote global financial stability, it is not clear where the role of the IMF should stop and that of the World Bank or other development institutions should begin. The Johannesburg Plan begins to help the IMF focus its reform efforts through the lens of sustainable development and the call for mandate-driven institutional reform. The fact that most reforms proposed for the international financial architecture are not likely to result in amendments to the charters or treaty bases of the institutions involved does not, however, preclude that new legal mechanisms may be required for some individual reforms of the financial system. One such possible reform is the Sovereign Debt Restructuring Mechanism now under discussion. The IMF is preparing proposals for "strong legal framework for the predictable and orderly restructuring of sovereign debt"[73] for its Spring 2003 meeting, based in part on a combination of best practices from various national bankruptcy legal systems. One instance of financial architectural reform that is even more likely to require a treaty amendment would be implementation of proposal to use IMF special drawing rights for development purposes.[74] This proposal recalls the need to respect IMF Articles of Agreement (or amend them) and established procedures; and to respect the need for global liquidity.[75]

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72 The IMF claims progress in reducing such conditionality, see Intergovernmental Group of Twenty-Four on International Monetary Affairs and Development Communiqué, 19 April 2002: "23. Ministers welcome the progress being made at the initiative of the Managing Director of the IMF in strengthening national ownership of reform programs and in streamlining conditionality associated with the use of Fund resources, basing it to a greater degree on practical outcomes rather than on the implementation of intermediate target variables or specific prior actions."

73 Proposals for a Sovereign Debt Restructuring Mechanism (SDRM), A Factsheet, November 2002, available at <http://www.imf.org/external/np/exr/facts/sdrm.htm>.

74 Called for in Monterrey Consensus, para. 44 and suggested in the Johannesburg Plan of Implementation, para. 82: "Explore ways of generating new public and private innovative sources of finance for development purposes, provided that those sources do not unduly burden developing countries, noting the proposal to use special drawing rights allocations for development purposes, as set forth in paragraph 44 of the Monterrey Consensus", see <http://www.imf.org/external/np/exr/facts/sdr.htm>.

75 Para. 22 Zedillo Report: "Studies on innovative sources of finance remained important. Several participants called for the swift implementation of the Fourth Amendment of IMF Articles of Agreement on the special, one-time allocation of SDRs and urged those countries that had not done

Regarding inter-institutional collaboration and coordination, shortly after the Johannesburg Summit, a joint IMF/World Bank Progress Report on Implementing the Monterrey Consensus published in September 2002 identified an "architecture of mutual responsibility based on a two-pillar approach" as the basis for reaching the Millennium Development Goals; an approach that combines country owned domestic policies and structures with an "enabling international environment".[76] While clear as to the existence of two separate issues: increased coherence and increased participation, the September 2002 Report does little to indicate what the connection between the two issues is, or what that connection might imply for implementing sustainable development goals. An earlier, post-Monterrey assessment[77] prepared for the April 2002 Bretton Woods Institutions/ECOSOC meeting[78] addressed issues of good governance by highlighting increased IMF participation in programs such as the Comprehensive Development Framework (CDF) and the Poverty Reduction Strategy Papers (PRSP).[79] Under the heading of institu-

so to ratify promptly the Fourth Amendment. They also encouraged developed countries to donate the increase in their allotment to an international development fund."

[76] Para. 3, Progress Report: Architecture of mutual responsibility, based on a two-pillar approach, for reaching the UN Millennium Development Goals; see also Financing for Development, Implementing the Monterrey Consensus, Paper Prepared by the Staff of the World Bank and the IMF for the Spring 2002 Development Committee Meeting, 11 April 2002, available at <http://www.imf.org/external/np/pdr/FfD/2002/imp.htm>, para. 6: "For countries, these include efforts to encourage: sound macroeconomic policies, good governance, improved investment climates, capacity building, country ownership, and partnerships. For an enhanced international environment, these include initiatives to promote more and better aid, better market access for developing countries, and improved crisis prevention." Specifically as to institutional "systemic" issues, para. 35 of the Progress Report: "As part of the systemic agenda, the Monterrey Consensus stressed the importance of improving coherence through better coordination of efforts amongst international institutions and agencies, the donor community, the private sector and civil society. There was also broad agreement that the best approach was to build on existing institutions and mechanisms, and to strengthen partnerships and linkages including those between the Bank and Fund and the UN. The Monterrey discussions also highlighted the importance of promoting greater participation and voice of developing countries in international institutions and fora."

[77] Development Committee Communiqué, 21 April 2002, para. 4, availabe at <http://wbln0018.worldbank.org/DCS/devcom.nsf/>, under "Communiques".

[78] See Financing for Development, Implementing the Monterrey Consensus, *supra* note 94. The IMF/World Bank paper is summarized in A/57/319–E/2002/85, 16 August 2002, Fifty-seventh session, Item 95 of the provisional Agenda, high-level international intergovernmental consideration of financing for development follow-up efforts to the International Conference on Financing for Development, Report of the Secretary-General, paras. 15 et seq. A/57/319–E/2002/85 is available at <http://www.un.dk/doc/A57319.pdf>.

[79] Development Committee Communiqué, 21 April 2002, para. 4: "The CDF/PRSP approach is increasingly providing a common foundation for implementing the new partnership at the country level. While recognizing that scope for improvement exists, we shared the positive assessment of implementation to date, particularly in enhancing ownership. We look forward to continued progress in extending the participatory processes for the elaboration and monitoring of PRSPs, implementing pro-poor growth policies, enhancing collaboration to strengthen public expenditure management and to improve poverty and social impact analysis; and, amongst multilateral and bilateral development agencies, in better aligning their programs with country strategies." This statement seems in direct response to the concern that the IMF was exercising too much control over national reforms without giving the national stakeholders sufficient opportunity to contribute to the decisions, for example by

tional collaboration, the same document also addressed harmonization and streamlining.[80] As with the Progress Report discussed above, the call for this background paper is another indication that the institutions involved have not yet figured out just how the issues of good governance in the form of increased participation relates to and, at the same time, can be distinguished from issues of increased coordination between institutions. The call, in para. 10, combines both ideas.[81] The Progress Report[82] begins to shed light on what the April 2003 paper might contain.[83]

C. The World Bank

The World Bank, in keeping with its full name, The International Bank for Reconstruction and Development, had as its founding purposes not only assisting in post-war reconstruction, but also in "the encouragement of productive facilities and resources in less developed countries".[84] Over the years its mission reasonably

helping to shape the benchmarks and standards by which reform of national economic structure are to be judged. On PRSPs generally see Poverty Reduction Strategy Papers: Progress in Implementation (the report focuses on key issues that countries are confronting as they begin to implement their PRSPs: participation, macroeconomic policy choices and pro-poor growth, poverty and social impact analysis, public expenditure management, monitoring and evaluation, and donor alignment and harmonization, available at <http://www.worldbank.org/poverty/strategies/index.htm>. The Poverty Reduction and Growth Facility is described *inter alia* at 22/05/2002/Rev. 1, President's Summary of the special high-level meeting of the Economic and Social Council with the Bretton Woods Institutions and WTO (New York, 22 April 2002), para. 9, available at <http://www.un.org/esa/coordination/ecosoc/23May02-summary.pdf>.

80 "5. We reaffirmed our strong support for the current work program to harmonize operational policies and procedures of bilateral and multilateral agencies so as to enhance aid effectiveness and efficiency. We committed to further action in streamlining such procedures and requirements over the period leading to the high-level forum scheduled for early 2003." These issues are the subject of a background paper on coordination to be prepared for special high level meeting of ECOSOC with the Bretton Woods Institutions and the World Trade Organization on 14 April 2003. See <http://www.un.org/esa/coordination /ecosoc/BWIInfoNote.pdf>.

81 "The Monterrey Summit also stressed the importance of greater coherence, coordination and cooperation among multilateral organizations and the need to broaden and strengthen participation of developing countries and countries with economies in transition in international decision-making and norm-setting. The Summit encouraged the World Bank and the IMF to find pragmatic and innovative ways to further enhance participation of these countries and thereby to strengthen the international dialogue and work of these institutions. We requested the Bank and the Fund to prepare a background document to facilitate consideration of these important issues at our next meeting." See Development Committee Communiqué, 21 April 2002, para. 10.

82 Progress Report.

83 With regard to the first issue of improved coordination, the Progress Report reveals that the Bank and the IMF are exploring "concrete ways to enhance cooperation" with the UNDP for "country-level monitoring" of how the Millennium Development Goals are being implemented, within the context of Poverty Reduction Strategy Papers. See Progress Report, para. 4. Other improvements in coordination include: developing indicators to measure progress toward the Millennium Development Goals, an area in which the Bretton Woods Institutions are "actively involved" in the work that the UN Department of Economic and Social Affairs is leading in this field; and expanded collaboration with the UN in providing data and assessments for various UN reports such as the Global Poverty Report and the World Development Indicators.

developed into providing longer term development finance in the context of its institutional technical expertise. Today the World Bank sees its mission as, *inter alia*, improving delivery of poverty reduction and development assistance programs and its main initiatives as helping developing countries to assess system vulnerabilities and to respond to consequences of financial crises, as well as working to improve global economic governance.[85] In varying degrees the following topics – and these are just a partial listing – are all seen as falling in some way under the World Bank umbrella: environmental protection, institutional development in the poorest countries, loans for AIDS prevention in Africa, support for health care, promotion of sustainable development, and (in keeping with its post-conflict mandate) "reconstruction in the Balkans, [and] economic management in the Middle East".[86] Given this complex and wide-reaching network of potential responsibilities, calls for reconsidering World Bank programs fall not only under reform of the international financial architecture but also the international development architecture.[87] Suggestions for mandate focus include sticking to the Bank's expertise in raising *per capita* income, and infrastructure loans[88] and yielding certain tasks (such as encouraging

[84] Articles of Agreement of the International Bank for Reconstruction and Development, accepted 27 December 1944, attached as Annex B to the Final Act of the Bretton Woods Conference, which took place in July 1944, entered into force 27 December 1945. Art. I: The purposes of the Bank are: (i) To assist in the reconstruction and development of territories of members by facilitating the investment of capital for productive purposes, including the restoration of economies destroyed or disrupted by war ... (ii) To promote private foreign investment by means of guarantees or participations in loans and other investments made by private investors ... (iii) To promote the long-range balances growth of international trade and the maintenance of the equilibrium in balances of payments by encouraging international investment for the development of the productive resources of members ... (iv) To arrange the loans made or guaranteed by it in relation to international loans through other channels so that the more useful and urgent projects, large and small alike, will be dealt with first ... (v) To conduct its operations with due regard to the effect of international investment on business conditions in the territories of members and, in the immediate post-war years, to assist in bringing about a smooth transition from a wartime to a peacetime economy. The Bank shall be guided in all it decisions by the purposes set forth above." Emphasis added.

[85] The IMF three main initiatives pertaining to reform of the international financial architecture: (a) the Reports on the Observance of Standards and Codes; (b) the Financial Sector Assessment Program; and (c) the preparation of Public Debt Management Guidelines and a complementary Practitioner's Manual on the development of domestic markets for government debt.

[86] Jessica Einhorn, The World Bank's Mission Creep, Foreign Affairs, September/October 2001, 28.

[87] Einhorn, ibid., 33; further to aid architecture, see Nancy Birdsall/John Williamson, Delivering on Debt Relief: From IMF Gold to a New Aid Architecture, 2002.

[88] See Einhorn, *supra* note 86, 23-35: "Fundamentally committed to open trade, the bank initially emphasized loans to build public infrastructure – railways, roads, ports, power plants, and communication facilities. It believed such projects, accompanied by financial stability and private investment, could do the most to trigger development. The bank then learned lessons along the way. Latin America showed the deleterious effects of inflation and macroeconomic instability. South Asia demonstrated how the state could distort markets through price and regulatory controls, producing scarcity and skewed prices. Africa taught the importance of education, training, and human-resource development for economic progress. Thus the bank came to understand the importance of policy. And money became the vehicle for policy advice, displacing the old notion that foreign capital alone would spur greater productive investment and, over time, development."

judicial reform or protection of cultural heritage) to organizations more qualified to deal with them. Another likely candidate for continuance are the Bank's Country Policy and Institutional Assessments of policy, governance and institutional performance for some 135 developing countries.[89]

The World Bank's follow-up to Johannesburg is basically a continuation of steps set in motion after the Monterrey Consensus. According to the joint IMF/World Bank paper on Implementing the Monterrey Consensus,[90] Monterrey strengthened the Bank in its role of supporting countries in implementing structural and institutional reforms and as a "catalyst" both for promoting higher levels and more effective Official Development Assistance and, through the International Finance Corporation/ Multilateral Investment Guarantee Agency, for private investment.[91] In addition to the concrete steps discussed above under the IMF follow-up to Johannesburg, the September 2002 IMF/World Bank Development Committee Progress Report on implementing the Monterrey Consensus identifies several World Bank-specific steps that have been taken since Monterrey. The Bank is "contributing to the preparation of country case studies on obstacles and opportunities to accelerate progress towards the [Millennium Development Goals]".[92] And as with joint IMF/World Bank initiatives to collaborate with various UN agencies on data and reporting, the World Bank and the UNDP have agreed "to coordinate on the content, analysis and preparation of the 2003 World Development Report on Making Services Work for Poor People and the 2003 Human Development Report which will focus on the Millennium Development Goals."[93] This type of collaboration seems well-suited to begin to reduce the overlap and duplication of effort inherent when numerous institutions pursue sustainable development goals.

D. Funds

Environmental and social purposes are specifically pursued by institutionalised funds. Several institutionalised Funds[94] are implicated in the Johannesburg Plan, especially the World Solidarity Fund, the Doha Development Agenda Global Trust Fund,[95] the Montreal Protocol Fund, and the Global Environment Facility,[96] the

[89] Progress Report, 6, note 6.

[90] Implementing the Monterrey Consensus, Financing for Development.

[91] The IMF/World Bank paper is summarized in A/57/319–E/2002/85, paras. 15 et seq.

[92] Page 4, the report lists six studies completed or in process in September 2002 (Vietnam, Argentina, Uganda, Armenia, Bangladesh and Yemen).

[93] Progress Report, 4.

[94] Other funds mentioned in the Johannesburg Plan include the Global Fund to Fight AIDS, Tuberculosis and Malaria, para. 48(b); the Second Account of the Common Fund for Commodities, para. 89; the fund to assist commodity dependent countries; the Trust Fund of the International Strategy for Disaster Reduction, para. 39(a).

[95] Plan, para. 84(c).

[96] Proposals for the Global Environment Facility to become the implementing fund for the Convention to Combat Desertification, supported by the Johannesburg Plan, para. 39(f), have already been adopted. On the Facility and sustainable development generally, see GEF, Financing for Envir-

latter of which administers the Montreal and other convention-specific funds.[97] New at Johannesburg was the agreement to establish the World Solidarity Fund "to eradicate poverty and to promote social and human development in the developing countries".[98] The subsequent General Assembly Resolution from December 2002 assigns to the UNDP Administrator the task of making it operational as "a UNDP Trust Fund subject to the financial rules and regulations as adopted by the Executive Board of UNDP/UNFPA".[99] The Resolution stresses "the voluntary nature of the contributions, the need to avoid duplication of existing United Nations funds, and encouraging the role of the private sector and individual citizens relative to Governments in funding the endeavours". Funding requests will be channelled through the Governments of developing countries, and funds will be used for "financing poverty alleviation projects, including initiatives from community-based organizations and small private sector entities". The Fund is modelled on the Tunisian National Solidarity Fund established by President Zine El Abidine Ben Ali, who was the first to call for a World Solidarity Fund before the General Assembly.[100] Before Monterrey and Johannesburg, bridges linking the (environmental) development and finance worlds had already been built in the form of the Global Environment Facility. The Facility is an alliance of the UNDP,

onment and Sustainable Development in Developing Countries, Background paper prepared for the GEF Ministerial Roundtable on Financing for Environment and Sustainable Development, Monterrey, Mexico, 17-18 March 2002, and Alan S. Miller, The Global Environment Facility and the Search for Financial Strategies to Foster Sustainable Development, Vermont L. Rev. 24 (2000), 1229-1244.

97 The Global Environment Facility's five point mission is tied directly to five international conventions: biodiversity, climate change, ozone, persistent organic pollutants, international waters and land degradation. One example of recent convention-specific decisions which reflect themes repeated in the Johannesburg Plan is the Convention on Biological Diversity Decision VI/17, "Financial Mechanism under the Convention", COP 6, April 2002, para. 10: "In this regard, the Global Environment Facility shall provide financial resources to developing countries Parties, taking into account the special needs of the least developed countries and the small island developing States amongst them, for country-driven activities and programmes, consistent with national priorities and objectives, recognizing that economic and social development and poverty eradication are the first and overriding priorities of developing countries, and taking fully into consideration all relevant decisions from the Conference of the Parties."

98 See Key Outcomes of the Summit, 2, under Key Commitments, Targets and Timetables from the Johannesburg Plan of Implementation: Poverty Eradication, and the Plan itself, under II. Poverty Eradication, para. 6(b).

99 The Fund itself was established later, but in connection with the Johannesburg Summit, by Resolution A 57/265 of 21 December 2002.

100 He first called for such a fund on 25 August 1999 in the UN, see <http://www.solidarity-fund.org/eng/presentation.html>. The General Assembly responded with a Resolution 55/220 of 20 December 2000, within the framework of "the implementation of the First United Nations Decade for the Eradication of Poverty (1997-2006), including the initiative aimed at establishing a World Solidarity Fund for Poverty Eradication", <http://ods-dds-ny.un.org/doc/UNDOC/GEN/N00/571/75/PDF/N0057175.pdf?OpenElement>. The General Assembly declared that it favorably welcomed the proposal to establish a world solidarity fund for the eradication of poverty, as a contribution to the elimination of poverty and the promotion of social and human development in the world's poorest regions, and requested the Secretary General "to undertake the necessary consultations with member states and other parties concerned by this issue while taking into consideration the voluntary nature of contributions and to report to the fifty-sixth session of the General Assembly", para. 14.

UNEP and the World Bank, all of which serve as its implementing agencies. But in its case, the bridge traffic has been somewhat one way, since the environmental purposes of the Facility as determined by the Meetings of the Parties have more or less dictated how each organization contributes to achieving the Facility's ends.[101] It is telling that the Global Environment Facility, which plays a central role in the Johannesburg implementation plan, is not even mentioned in the Monterrey Consensus, whose focus is individual institutions of finance and trade.

E. International Financial Institutions and Official Development Assistance

The Johannesburg Plan calls for making Official Development Assistance more available and more efficient.[102] Under para. 79(a) the signatories will cooperate internationally and nationally to "[m]ake available the increased ODA commitments announced by several developed countries at the International Conference on Financing for Development. [And to] Urge the developed countries that have not done so to make concrete efforts towards the target of 0.7 % of GNP as ODA to developing countries, and effectively implement their commitment on ODA to the least developed countries as contained in para. 83 of the Programme of Action for the Least Developed Countries for the Decade 2001-2010." The 0.7 % goal[103] was also recommended by the Zedillo panel.[104] To make Official Development Assistance more efficient, Johannesburg Plan signatories agree under para. 79(b) to "intensify efforts by the multilateral and bilateral financial and development institutions, in accordance with para. 43 of the Monterrey Consensus,[105] in particular to "harmonize their operational procedures at the highest standards, so as to reduce transaction costs and make ODA disbursement and delivery more flexible" and more responsive to the needs of developing countries. Some of the other efforts to be intensified under para. 43 of the Monterrey Consensus are: untying aid,[106] en-

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[101] On the functioning of the Global Environment Facility see Markus Ehrmann, Die Globale Umweltfazilität (GEF), ZaöRV 57 (1997), 565.

[102] Plan, para. 79. The Plan also called for increasing private direct investment, especially to countries largely ignored until now. Although it is also declining, private direct investment is more than four times larger than Official Development Assistance, The Challenge of Sustainability, 82. Commercial banks now often require that World Bank environmental guidelines be followed, ibid., 83, even though clearly not required to do so.

[103] Monterrey Consensus, para. 42: "In that context, we urge developed countries that have not done so to make concrete efforts towards the target of 0.7 % of gross national product (GNP) as ODA to developing countries and 0.15 – 0.20 % of GNP of developed countries to least developed countries, as reconfirmed at the Third United Nations Conference on Least Developed Countries [Brussels May 2001], and we encourage developing countries to build on progress achieved in ensuring that ODA is used effectively to help achieve development goals and targets."

[104] Zedillo Report, 8.

[105] Monterrey Consensus, para. 43: "Recipient and donor countries, as well as international institutions, should strive to make ODA more effective."

[106] Untying aid is an important aspect of Monterrey Consensus, para. 43, but does not appear explicitly in the Johannesburg Plan.

hancing "the absorptive capacity and financial management of the recipient countries to utilize aid".

Official Development Assistance is not a direct activity of the Bretton Woods Institutions, but it is an issue for institutional coordination, since the IMF and World Bank can affect the conditions in countries where Official Development Assistance is distributed and thus potentially enhance the effectiveness of Official Development Assistance.[107] By one estimate, Official Development Assistance fell by 3.8 % in 2000 to $ 40.7 billion and by another 0.4 % in 2001.[108] A further problem is that it is concentrated in relatively few developing countries. The GEF has suggested that, in order to stretch the limited amounts of available Official Development Assistance further, the international financial institutions could become more involved in promoting "innovative financial instruments" such as "partial risk and credit guarantees and payments for environmental services"[109] (to attract private investment to help provide these services).

3. The International Trading System

The Plan turns to the trade system, again showing that complementarity of the Bretton Woods Institutions and WTO is seen as indispensable to implementing sustainable development: "A universal, rule-based, open, non-discriminatory and equitable multilateral trading system, as well as meaningful trade liberalization, can substantially stimulate development worldwide, benefiting countries at all stages of development." This language largely echoes the reference to International Financial Architecture reform efforts in para. 80(a), "transparent, equitable and inclusive", but the Plan leaves it to the institutions and countries working together to hammer out the details of just how to reach these desiderata.

The autonomous action by the WTO is reflected in the Doha Work Programme, which is embedded in the November 2001 WTO Ministerial Declaration,[110] whose opening language recalls WTO commitments to promoting sustainable development and, as expressed in the Brussels and other declarations: "to help least-devel-

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[107] See, e.g., A/57/319-E/2002/85, 16 August 2002, para. 15. It is the OECD Development Assistance Committee (DAC) that is responsible for over 90 % of global Official Development Assistance. See Development Centre at 40, in: OECD Observer, 13 January 2003, available at <http://www.oecdobserver.org>, Print Version OECD Observer No. 234, October 2002. One significant proposal for national Official Development Assistance is the US Millennium Challenge Account, proposed in March 2002 and summarized in A/57/319–E/2002/85, *supra* note 96, paras. 8 et seq. Official Development Assistance commitments by Canada, Norway and Switzerland are also summarized in the same document, paras. 12 et seq.

[108] Global Environment Facility, The Challenge of Sustainability, An Action Agenda for the Global Environment, 2002, 80.

[109] The Challenge of Sustainability, 78.

[110] WT/MIN(01)/DEC/1, 20 November 2001, Ministerial Declaration, adopted on 14 November 2001. For updates since Doha see <http://www.wto.org/english/tratop_e/dda_e/dda_e.htm#workprogramme>.

oped countries secure beneficial and meaningful integration into the multilateral trading system and the global economy".[111] Under this approach, issues of particular interest to developing countries with respect to market access, trade-related aspects of intellectual property rights, trade and investment including the cooperation with UNCTAD are dealt with. Further, paras. 36 and 38 of the Doha Work Programme are relevant to the financing of sustainable development. The Work Programme acknowledges the connection between trade, debt and finance.[112] A Working Group under the auspices of the General Council is to examine "the relationship between trade, debt and finance", and consider "any possible recommendations on steps that might be taken within the mandate and competence of the WTO to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and least-developed countries, and to strengthen the coherence of international trade and financial policies, with a view to safeguarding the multilateral trading system from the effects of financial and monetary instability". It endorses the New Strategy for WTO Technical Cooperation for Capacity Building, Growth and Integration including Secretariat support of "domestic efforts for mainstreaming trade into national plans for economic development and strategies for poverty reduction".[113] The technical assistance would help developing and least-developed countries and low-income countries in transition "to adjust to WTO rules and disciplines, implement obligations and exercise the rights of membership, including drawing on the benefits of an open, rules-based multilateral trading system". Priority is to be given to "small, vulnerable, and transition economies, as well as to members and observers without representation in Geneva" and calls were made to enhance the work of the International Trade Centre (ITC) in this regard. Finally, the Doha Work Programme calls for meaningful integration of the LDCs (Least Developed Countries) into the international trading system.[114] This includes duty-free, quota-free market access for products originating from LDCs, the priority attached to LDC's accessions in the annual plans for technical assistance. The Monterrey Consensus does address some of the concerns such as marginalizing of the LDCs[115] and the need to integrate developing countries into the international trade system. This last point is

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111 Para. 3, Doha Ministerial Declaration.

112 Para. 36, Doha Work Programme: "We agree to an examination, in a Working Group under the auspices of the General Council, of the relationship between trade, debt and finance, and of any possible recommendations on steps that might be taken within the mandate and competence of the WTO to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and least developed countries, and to strengthen the coherence of international trade and financial policies, with a view to safeguarding the multilateral trading system from the effects of financial and monetary instability. The General Council shall report to the Fifth Session of the Ministerial Conference on progress in the examination."

113 Doha Work Programme, para. 38.

114 Doha Work Programme, para. 41.

115 Monterrey Consensus, para. 31. "We will implement the commitments made in Doha to address the marginalization of the least developed countries in international trade as well as the work programme adopted to examine issues related to the trade of small economies."

dealt with at length in para. 36, under "Leading Actions" by calling for financial and development institutions to apply increased resources toward gradual removal of supply-side constraints, and diversification of exports,[116] including more technological exports. This requires in turn funding for "trade-related training, capacity and institution building and trade-supporting services,"[117] which is to be accomplished in part through "Integrated Framework for Trade-Related Technical Assistance to Least Developed Countries and its follow-up, the Joint Integrated Technical Assistance Programme, the World Trade Organization Doha Development Agenda Global Trust Fund, as well as the activities of the International Trade Centre".

The Johannesburg Plan builds on the WTO's own opening for sustainable development concerns through its Doha Work Programme.[118] Although not mentioned explicitly in the Work Programme, the Doha Development Agenda Global Trust Fund (DDAGTF) is the central financial mechanism for the WTO to support implementation of the technical assistance programs. At a March 2002 Pledging Conference in Geneva the WTO Member States pledged a core budget of US$9 million for the Fund.[119] The Doha concepts stressed in the Johannesburg Program of Im-

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[116] Monterrey Consensus, para. 37 deals with the International Monetary Fund Compensatory Financing Facility, which the parties will continue to assess how well it "mitigate[s] the consequences of depressed export revenues of countries that still depend heavily on commodity exports".

[117] Monterrey Consensus, para. 36: "In cooperation with the interested Governments and their financial institutions and to further support national efforts to benefit from trade opportunities and effectively integrate into the multilateral trading system, we invite multilateral and bilateral financial and development institutions to expand and coordinate their efforts, with increased resources, for gradually removing supply-side constraints; improve trade infrastructure; diversify export capacity and support an increase in the technological content of exports; strengthen institutional development and enhance overall productivity and competitiveness. To that end, we further invite bilateral donors and the international and regional financial institutions, together with the relevant United Nations agencies, funds and programmes, to reinforce the support for trade-related training, capacity and institution building and trade-supporting services. Special consideration should be given to least developed countries, landlocked developing countries, small island developing States, African development, transit developing countries and countries with economies in transition."

[118] Para. 84 (c). Implement substantial trade-related technical assistance and capacity-building measures and support the Doha Development Agenda Global Trust Fund established after the Fourth WTO Ministerial Conference as an important step forward in ensuring a sound and predictable basis for WTO-related technical assistance and capacity-building; (d) Implement the New Strategy for WTO Technical Cooperation for Capacity-Building, Growth and Integration; (e) Fully support the implementation of the Integrated Framework for Trade-Related Technical Assistance to Least Developed Countries, <http://if.wto.org/strategy_e.htm> and urge development partners to significantly increase contributions to the Trust Fund of the Framework, in accordance with the Doha Ministerial Declaration.

[119] "The Pledging Conference was convened in accordance with the December 2001 decision by the WTO General Council to establish a sound and predictable basis for funding WTO Trade-Related Technical Assistance (TRTA)", <http://www.wto.org/english/news_e/pres02_e/pr279_e.htm>. The Coordinated WTO Secretariat Technical Assistance Plan 2002 (WT/COMTD/W/95) is available at <http://www.wto.org/english/news_e/pres02_e/pr277_a_e.htm>. US pledges $ 1 million of the $ 9 million budget: <http://www.us-mission.ch/press2002/0121zoellick.htm>; EU pledges: "The Commission and Member States' contribution makes up almost 60 % (over 9.4 million) of the total amount pledged for 2002" <http://europa.eu.int/comm/trade/miti/devel/pr130302.htm>.

plementation relate to technical assistance and to integrating developing countries and economies in transition into the global trading system.[120] According to the JPOI, for globalisation to be equitable and inclusive, such countries need assistance in facing the challenges of globalisation, one of which is serious financial crises.[121] The Integrated Framework for Trade-Related Technical Assistance to Least Developed Countries involves six core agencies – IMF, ITC, UNCTAD, UNDP, World Bank and WTO[122]. Mutual supportiveness of trade, environment and development shall be ensured through the WTO Committee on Trade and Environment and the WTO Committee on Trade and Development to each act as a forum to identify and debate developmental and environmental aspects of the negotiations. Support the completion of the work programme of the Doha Ministerial Declaration on subsidies so as to promote sustainable development and enhance the environment, and encourage reform of subsidies. Encourage efforts to promote cooperation on trade, environment and development between the secretariats of WTO, UNCTAD, UNDP, UNEP and other relevant international environmental and development and regional organizations.

4. UN/ECOSOC as a Central Coordinator

"Reinvigorating the United Nations system" is a Plan priority for promoting international cooperation, and the ECOSOC is to be strengthened "to enable it to fulfil the role ascribed to it in the Charter of the United Nations".[123] The Johannesburg Plan calls on the "international community" to "strengthen collaboration within and between the United Nations system, international financial institutions, the Global Environment Facility and WTO, utilizing the United Nations Chief Executives Board for Coordination (CEB), the UN Development Group, the Environment Management Group and other inter-agency coordinating bodies".[124] It then proposes the ECOSOC as the "central mechanism for the coordination of the United Nations system and its specialized agencies and supervision of subsidiary

120 Plan, para. 45 (a): "Continue to promote open, equitable, rules-based, predictable and non-discriminatory multilateral trading and financial systems that benefit all countries in the pursuit of sustainable development. Support the successful completion of the work programme contained in the Doha Ministerial Declaration and the implementation of the Monterrey Consensus. Welcome the decision contained in the Doha Ministerial Declaration to place the needs and interests of developing countries at the heart of the work programme of the Declaration, including through enhanced market access for products of interest to developing countries; and 45*bis*: "Implement the outcomes of the Doha Ministerial Conference by WTO members, further strengthen trade-related technical assistance and capacity-building, and ensure the meaningful, effective and full participation of developing countries in multilateral trade negotiations by placing their needs and interests at the heart of the WTO work programme."

121 Para. 45, see also para. 80(a).

122 See, e.g. Joint Communiqué by the Six Core Agencies of the Integrated Framework, WT/IFSC/1, 31 July 2001, at <http://if.wto.org/documents_e.htm>.

123 Monterrey Consensus, para. 67.

124 Plan, para. 122 (b).

bodies, in particular its functional commissions".[125] ECOSOC's original mandate included preparing draft conventions, hosting conferences on mandate related topics, and making or initiating "studies and reports with respect to international economic, social, cultural, educational, health, and related matters" and related recommendations to the General Assembly and Member States.[126] An ECOSOC-related outcome at Johannesburg was to enhance the role of the UN Commission for Sustainable Development,[127] including through reviewing and monitoring progress in the implementation of Agenda 21 and fostering coherence of implementation, initiatives and partnerships.[128] Many of the financial institutional references found in the Johannesburg Plan were developed in the decisions on financial resources for sustainable development adopted by the Commission for Sustainable Development at its eighth session in 2000.[129] The Eleventh Commission for Sustainable Development session,[130] post-Johannesburg, makes clear that there is a connection between the institutional changes encouraged by the Johannesburg Plan and the ongoing process of UN Reform generally.[131] The Johannesburg Plan

[125] Plan, para. 126.

[126] UN Charter, Art. 62.

[127] The Committee for Sustainable Development is a 53-member functional commission of the ECOSOC created in 1992 to coordinate the follow-up to Rio/UNCED, see Council Decision E/1993/207, 12 February 1993. Its annual meetings are attended by ministers and NGOs, over 1000 of which are accredited to participate in the work of the CSD. Its three-fold mandate is to coordinate follow-up to Rio, to "elaborate policy guidance and options for future activities to follow up UNCED and achieve sustainable development", and to "promote dialogue and build partnerships for sustainable development with governments, the international community and the major groups identified in Agenda 21 as key actors outside the central government". See the Committee's Mandate at <http://www.un.org/esa/sustdev/csdback.htm>. See also Inter-Agency Committee on Sustainable Development (IACSD). The role of IACSD is "to identify major policy issues relating to the follow-up to UNCED by the United Nations system and to advise the ACC (UN Administrative Committee on Coordination) on ways and means of addressing them so as to ensure effective system-wide cooperation and coordination in the implementation of Agenda 21, the Programme of Action for the Sustainable Development of Small Island Developing States (SIDS) and other UNCED outcomes and their follow-up", <http://www.un.org/esa/sustdev/iacsd.htm>, see also <http://www.un.org/esa/sustdev/csdgen.htm>.

[128] Key Outcomes of the Johannesburg Summit, p. 5. The Committee on Sustainable Development took Decisions on finance for sustainable development "at its second, third, fourth, sixth and eighth sessions, as did the General Assembly at its nineteenth Special Session (Earth Summit + 5) in its Resolution S/19-2 on the Programme for the Future Implementation of Agenda 21".

[129] See E/CN.17/2000/20, Decision 8/5, UN Sustainable Development, <http://www.un.org/documents/ecosoc/docs/2000/e2000-29.htm#Decision%208/5>: "19. International organizations are urged to better coordinate their work in the area of finance for sustainable development in order to avoid duplication and to raise their effectiveness, focusing on their respective areas of competence where they have a clear comparative advantage. In this regard, better cooperation and dialogue are needed between international organizations, including the Bretton Woods Institutions, the World Trade Organization, the United Nations Conference on Trade and Development (UNCTAD), the United Nations Environment Programme (UNEP), the United Nations Development Programme (UNDP) and GEF. 20. Governments and international organizations should improve their coordination efforts, using the United Nations Development Assistance Framework (UNDAF), the Comprehensive Development Framework proposed by the World Bank and the poverty reduction strategy process initiated by the World Bank and the International Monetary Fund (IMF), taking into account all aspects of sustainable development."

now instructs ECOSOC to "explore ways to develop arrangements relating to its meetings with the Bretton Woods institutions and WTO, as set out in the Monterrey Consensus".[132] Ministers of finance and development cooperation have been meeting after the annual meetings of the World Bank and IMF since 1998, in the wake of the Asian financial crises.[133] Adding the WTO to the high-level meetings promises to be an effective means to coordinate policy and procedures. The special high-level meeting of the ECOSOC with the Bretton Woods Institutions and WTO on 22 April 2002[134] gives a good indication of the direction such future cooperation will take. Para. 69 of the Monterrey Consensus specifically encouraged the UN, the World Bank and the IMF, along with the WTO to address issues of coherence, coordination and cooperation at the Bretton Woods Institutions/ECOSOC Spring 2002 meeting and called for it to include an intergovernmental segment with an agreed agenda "as well as a dialogue with civil society and the private sector".[135] Both that meeting and the subsequent regularly scheduled September meeting of just the Bretton Woods Institutions proved that concrete plans, if not actual steps, began taking shape soon after the Monterrey Consensus. The Spring 2002 Bretton Woods Institutions/ECOSOC meeting marked the first time that NGOs and members of the media and the business community were invited to attend[136] and reflected the new commitment to include a broader range of representatives from civil society, even though their status was that of guests. The Spring Meetings, which began in 1998, follow each year on the heels of the Development Committee of the World Bank and the International Finance Committee of the IMF. The 24 member Development Committee, comprising primarily ministers of finance or development, is a forum of the World Bank and the IMF that facilitates intergovernmental consensus-building on development issues.[137, 138] The Joint

130 Committee for Sustainable Development, 11th Session, New York, 28 April – 9 May 2003, Organizational Session, Commission on Sustainable Development New York, 27 January 2003, <http://daccess-ods.un.org/TMP/1544228.html>.

131 Draft Resolution I, World Summit on Sustainable Development, in Environment and sustainable development: implementation of Agenda 21 and the Programme for the Further Implementation of Agenda 21 Report of the Second Committee, 12 December 2002, A/57/532/Add.1, 6: "10. Requests the Secretary-General to take into full account the outcomes of the World Summit on Sustainable Development, in particular the decisions made on the institutional framework for sustainable development as contained in chapter XI of the Plan of Implementation, in the ongoing process of reform of the United Nations and in his contribution to the integrated and coordinated implementation of and follow-up to the outcomes of major United Nations conferences and summits in the economic, social and related fields."

132 Plan, para. 126(f). See Monterrey Consensus, para. 69, for the Consensus' sole specific mention of the Bretton Woods Institutions as a collective whole.

133 On the origins of the Bretton Woods Institutions/ECOSOC meeting, see the text following note 39, *supra*, and <http://www.un.org/esa/coordination/ecosoc/Bretton Woods Institutions.htm>.

134 See 22/05/2002/Rev. 1, President's Summary.

135 For details of that meeting go to <http://www.un.org/esa/coordination/ecosoc/Bretton Woods Institutions.htm>.

136 See <http://www.un.org/esa/coordination/ecosoc/Bretton Woods InstitutionsSimonovic.pdf>.

137 Known formally as the Joint Ministerial Committee of the Boards of Governors of the Bank and the Fund on the Transfer of Real Resources to Developing Countries, the Committee was estab-

IMF/World Bank Progress Report on Implementing the Monterrey Consensus summarizes well the "Operational Activities" needed for such collaboration: "continued dialogue with the World Bank, IMF, regional development banks, EC and OECD/DAC [Development Assistance Committee] on critical operational issues such as practical collaboration to integrate the MDGs [Millennium Development Goals] in PRSPs [Poverty Reduction Strategy Papers]; [and] preparation of a more detailed, medium-term UNDG [UN Development Group] strategy for operational support to the MDGs".[139] Earlier, the special high-level meeting of the ECOSOC with the Bretton Woods institutions and WTO on 22 April 2002 discussed how to achieve coherence of the international monetary, financial and trade systems, and participation of developing countries in global economic policy making. There was broad recognition that future joint meetings would need to be intensively prepared by exchanges among ECOSOC and the Boards of IMF, World Bank and WTO and among the related secretariats. One specific proposal was to set up a contact group, somewhat akin to the 15-member Bureau of the Financing for Development Preparatory Committee. In addition to a contact group, a mechanism was envisioned to coordinate the work and reporting of the secretariats of the UN, Bretton Woods Institutions and the WTO "to ensure the coherence of agendas at the intergovernmental and inter-agency levels".[140] Other conclusions the April 2002 special high-level meeting were that "Coherence and coordination between recipient and donor countries, among donor countries and between donors and multilateral financial institutions in support of national strategies" were needed (para. 18). In this context, "harmonization of procedures of development assistance" were deemed necessary, as were streamlining requirements and improving "coordination of disbursement and delivery mechanisms in order to minimize the burden of compliance on the recipient countries, moving from conditionality to partnership". The cross-cutting themes of the Johannesburg Plan of implementation arose again in the area of good governance (in terms of enhanced participation)[141] and improved coherence and cooperation.[142] In the area of benchmarking, the UN Development

lished in 1974, <http://wbln0018.worldbank.org/DCS/devcom.nsf/adc/welcomeweb?opendocument>. Between Monterrey Consensus para. 69 and ECOSOC Resolution E/2002/34, the Eighth Spring meeting scheduled for 13 April 2003, has been given specific tasks, "including addressing issues of coherence, coordination and cooperation, as a follow-up to the Monterrey Conference. In addition, they encourage the continuation of the innovative and participatory process that characterized the Conference by ensuring the active participation of civil society, including representatives of NGOs and the private sector." See <http://www.un.org/esa/coordination/ecosoc/Bretton Woods Institutions-Manuel.pdf>.

138 See <http://www.un.org/esa/coordination/ecosoc/BWIInfoNote.pdf>.

139 Progress Report, 19-20, under Global Actions.

140 President's Summary, para. 26, "... it was further stated that a coordinating mechanism should be considered for the secretariats to work together. UN, Bretton Woods Institutions and WTO could prepare joint reports on specific and sectoral issues."

141 As the President's Summary, para. 18 continued: "In this context, a number of speakers highlighted the PRSP approach based on strong national ownership, broad-based participation in policy design and monitoring, and strengthened national and international partnerships. Regional initiatives, such as the NEPAD, among governments, the private sector, civil society and development partners

Program was seen as playing central role at national level in measuring implementation progress and capacity building.[143] Shortly after Johannesburg, the IMF/ World Bank Development Committee published a paper on "Better Measuring, Monitoring, and Managing for Development Results" in September 2002, which is one of the many documents now available under the documentation initiative of the Working Group on the integrated and coordinated follow-up to the outcomes of the major United Nations conferences and summits.[144]

Some four months after the Johannesburg Summit, the General Assembly established a Working Group on the integrated and coordinated follow-up to the outcomes of the major UN conferences and summits with Resolution A/57/270.[145] Both the Monterrey Summit and the Johannesburg Summit are included in this mandate.[146] The Working Group is to produce "concrete recommendations to ensure an integrated and coordinated follow-up to the outcomes of the United Nations conferences and summits in the economic, social and related fields and will thus contribute to the implementation of the internationally agreed development goals, including those contained in the United Nations Millennium Declaration".[147] The Resolution echoes certain cross-cutting themes of the Johannesburg Plan, e.g. enhancing inter-agency collaboration and coordination,[148] and assuring that the outcomes of major UN conferences and summits are integrated into the operations and programs of UN organizations, bodies and organs.[149] The Working Group will look at "modalities of reporting" and at the "format and periodicity" (para. 5) of reviewing implementation of the various conference and summit outcomes. The Resolution sets a tight timetable, requiring a report no later than 27 June 2003, for consideration by the General Assembly and action before the close

were felt to hold great potential. At the same time, several speakers stressed that care should be taken not to duplicate processes that were already taking place elsewhere."

142 President's Summary, para. 19: "Improved policy coherence and enhanced cooperation at the intergovernmental level were also seen as an important element in effective implementation. Enhanced cooperation among the UN, Bretton Woods Institutions and the WTO, at both intergovernmental and Secretariat levels, in the Financing for Development process should continue and be strengthened in the implementation of the Consensus."

143 Further on Benchmarking and Sustainable Development, see, e.g., <http://netec.mcc.ac.uk/WOPEc/data/Papers/wpawuwpot0210001.html>, <http://www.eeb.org/activities/Governance/ENV%20GOVERNANCE.AUSTRIAN%20PR.pdf> (EU GlobalGovernance Workshop, March 2002).

144 DC2002-0019, 18 September 2002, available at <http://www.un.org/esa/coordination/ecosoc/wgga/Home1.htm#BWIs>.

145 Open-ended *ad hoc* working group of the General Assembly, given the task at its 78th plenary meeting, 20 December 2002, A/RES/57/270, 24 January 2003, of "Integrated and coordinated implementation of and follow-up to the outcomes of the major United Nations conferences and summits in the economic and social fields".

146 Other conferences and summits included are the World Food Summit, Habitat Agenda, Millennium Summit, UN Special Session on Children, Second World Assembly on Ageing, International Conference on Population and Development. For a full display see <http://www.un.org/esa/coordination/ecosoc/wgga/wgga.htm>.

147 A/RES/57/270, 24 January 2003, para. 3.

148 A/RES/57/270, 24 January 2003, Preamble.

149 A/RES/57/270, 24 January 2003, para. 7

of the fifty-seventh session in 2003. The grid of interlinking organizations and conferences produced soon after the Resolution gives a sense of the complexity of the task,[150] beginning with the simple listing of documents relevant to the new ECOSOC coordination. Working with information provided by the UN Development Group and the UN System Chief Executives Board for Coordination the Working Group breaks the list into organization- or program based categories, including the Bretton Woods Institutions, Regional Commissions, Financing for Development, Specialized Agencies, Millennium Development Goals, NGOs and other private partnerships, Indicators on follow-up to conferences, Progress Reports on the implementation of conference and summit outcomes,[151] Least Developed Countries, and others.

V. Conclusions

After Johannesburg, strong financial institutions are now rightly seen as essential for furthering sustainable development.

The Johannesburg Summit builds on the Monterrey Consensus in acknowledging that institutions are necessary not only for economic and social development but also for environmental protection as a part of sustainable development. The Monterrey Consensus firmly established the process of building bridges between development, finance and trade.[152] It was the task of the Johannesburg Summit to show how the finance and trade institutions of the Monterrey Consensus fit into the overall structure of sustainable development. After Johannesburg, it is now clear that, institutionally, the bridges between development, finance and trade, can be crossed in both directions. To the extent that sustainable development concerns are integrated into how financially oriented institutions do business, that is the degree to which their rationality (logic of action), as expressed in their respective mandates, influences the means if not the objectives of sustainable development. Horizontal integration occurs between financial and trade institutions (IMF/World Bank-WTO). Each international institution involved in sustainable development seeks its own ends, whether comprising traditional international organizations such as the WTO or the lean, institutionalised treaties prevalent in international environmental law.[153] Vertical between global institutions, national and regional insti-

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[150] See <http://www.un.org/esa/coordination/ecosoc/wgga/Home1.htm>.

[151] Including the Report of the Secretary-General on "Follow-up efforts to the International Conference on Financing for Development", A/57/319-E/2002/85, *supra* note 96, quoted throughout this article.

[152] Monterrey Consensus, para. 68, commits to "continuing to build bridges between development, finance, and trade organizations and initiatives, within the framework of the holistic agenda of the Conference. Greater cooperation among existing institutions is needed, based on a clear understanding and respect for their respective mandates and governance structures."

[153] See Volker Röben, Modern Institutional Developments under International Environmental Agreements, Max Planck Yearbook of United Nations Law 4 (2000), 363, 439.

tutions such as New Partnership for African Development are brought into the scheme. The international effort is subsidiary and complementary to the national effort. Making sustainable development happen can be seen as the overarching mandate of the Johannesburg Summit. That mandate is passed on to, digested and applied by each institution involved in Financing for Development. As they incorporate sustainable development into their goals and operations, and as they cooperate with other actors to those ends, their internal structures are changed, even if in small ways such as how reports are prepared or external communications are structured. It may even be that the exercise of coordinating, collaborating, and streamlining based on institutional expertise leads the institutions back to their original mandates. In return, each of these financial and trade institutions also brings its own culture into the worlds with which it is cooperating. Hence the imagery at the outset of this article, that the Bretton Woods Institutions and WTO are making headway into UN territory, bringing notions of financial stability, market access and good governance with them. The Plan implicitly acknowledges that for its part the UN system, in its decades-long promotion and pursuit of sustainable development, has indeed influenced the culture of the Bretton Woods Institutions by asking them to incorporate issues such as human rights and environmental protection into what had been essentially financial decisions, sometimes thereby contributing to mandate creep. The WTO has shown itself more able to stay within its mandate. What the Johannesburg Plan attempts to do by making each institution focus on its respective mandate, is to give some direction to how institutions influence each other.

The Reform efforts undertaken in many of the individual institutions discussed in this paper will be promoted and, if the Johannesburg Plan of Implementation is taken seriously, perhaps even forced by the consistent application of the Plan. Suggestions that the World Bank, and indeed the UN, need to move away from proclamation of the "unachievable vision" to the hard work of implementing mechanisms for an "achievable mission"[154] could be said to apply to all of the institutions addressed in the Plan. The Plan could even be seen as a first step in this direction. While it does contain its share of lofty proclamations of the unachievable, it also sets out a basic outline for each institution involved in Financing for Development[155] to re-examine its mandate as it relates to sustainable development, to decide on programs to carry out that mandate, and to come up with proposals as how best to link their programs and expertise not only with complementary institutions of financing for development but with other institutions pursuing the common goal of sustainable development. In so doing, the Plan and, through it, the UN, provide an overall governance function for the numerous more or less autonomous institutions in the field. In this respect, the Plan produces legal effect.

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154 Einhorn, *supra* note 86, 22.

155 And for institutions involved in other aspects of sustainable development not detailed in this paper.

The argument that environmental protection will suffer because already limited funds will be channelled to "development" rather than "environment" ignores one of the fundamental premises of the Johannesburg Summit and its Plan of Implementation, with roots in the UNCED: that – in institutional reality – the "three components of sustainable development – economic development, social development and environmental protection – [are] interdependent and mutually reinforcing pillars".[156]

[156] Plan, para. 2. The fact that preserving natural resources is essential to economic development is emphasized in the opening paragraphs of the Johannesburg Plan: "Poverty eradication, changing unsustainable patterns of production and consumption, and protecting and managing the natural resource base of economic and social development are essential requirements for sustainable development." Plan, para. 2.