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COMMENTARY

The Rio+20 Process: Forward Movement for the Environment?

Ann Powers*

Abstract

This commentary summarizes the events at the recent UN Conference on Sustainable Development, commonly referred to as Rio+20, noting both the role of official national delegations and the diversity of non-state parties that were involved in a variety of venues at and around Rio+20. It sketches the background of sustainable development efforts, maps the road from the original 1992 Rio Earth Summit to the 20th anniversary gathering, and comments on the Conference's outcomes and their implications for international law and legal institutions. In answer to the much debated question of whether the Rio+20 was a success or a failure, or something in between, the author concludes that the Conference, while disappointing to many, may have furthered the cause of sustainable development by producing a document which reflects a baseline of international norms and by fostering the increasingly important role of civil society action, commitments and partnerships, and of transnational governance.

Keywords: Rio+20 Conference, Sustainable Development, Agenda 21, Civil Society, Transnational Governance

1. INTRODUCTION

The dust is beginning to settle after the United Nations (UN) Conference on Sustainable Development (UNCSD), better known as 'Rio+20'. Briefcases have been unpacked, expense sheets submitted, follow-up emails sent, and initial reactions written. While no one appears to be particularly enthusiastic about the results, opinions as to the merit of the Conference range the spectrum from generally satisfied to scornfully critical. Greenpeace labelled it 'a failure of epic proportions',¹ while other sustainable development advocates

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The author, along with other Pace Faculty members and students, wrote blogs from the Rio+20 Conference, available at: <http://greenlaw.blogs.law.pace.edu>, a selection of which is also reproduced in A. Powers, 'One Participant's Diary' (2012) 42(3) *Environmental Policy and Law*, pp. 140–2.

¹ 'Greenpeace Press Statement: Rio+20 Summit – A Failure of Epic Proportions', 22 June 2012, available at: <http://www.greenpeace.org/international/en/press/releases/Greenpeace-Press-Statement-Rio20-Earth-Summit-a-failure-of-epic-proportions>.

described the final document as mediocre, falling ‘far short of the spirit and the advances made over the years since Rio-92’.² They maintained that ‘Rio+20 will go into history as the UN conference that offered global society an outcome marked by serious omissions. It endangers the preservation and social and environmental resilience of the planet, as well as any guarantee of acquired human rights for present and future generations’.³ The World Wildlife Fund (WWF) called the process ‘without content’, resulting in ‘a squandered opportunity – an agreement that does not set the world on a path toward sustainable development’.⁴ Nevertheless, there was recognition that some useful things had occurred. The Natural Resources Defense Council (NRDC) expressed deep disappointment over the lack of action on the high seas,⁵ but emphasized the positive,⁶ noting the many voluntary commitments made by participants and creating a ‘cloud’ on its website to feature them.⁷

What your view is on this may be determined by which ‘Rio+20’ you are talking about, since there were many. The primary locus of events was Rio Centro, a conference facility one hour by bus from downtown Rio de Janeiro (Brazil). Admission to Rio Centro was limited to representatives of UN national and observer delegations, and to individuals who represented non-governmental organizations (NGOs) accredited by the UN Economic and Social Council (ECOSOC). An estimated 12,000 participants were said to be accredited by ECOSOC, in addition to national delegations.⁸ A few minutes’ walk from Rio Centro, Athletes’ Park held pavilions and gathering sites open to delegates and to the public, much like a trade show with countries, corporations and others showing their wares. The Italian pavilion was clad in glossy black solar panels, while BMW offered test drives of its energy-efficient cars. But, of the estimated 40–50 thousand people who came to Rio, the majority of attendees probably never made it out to these venues, attending instead the myriad events that took place around the city and at Flamengo Park, the official site of the ‘People’s Summit for Social and Environmental Justice in Rio+20’, which took place alongside the official Rio+20 Summit. For many, it was not the final official document which determined the success of the Conference, since expectations were generally very low in that regard, but the sense of community and commitment which permeated many of the ‘outside’ meetings, events and gatherings. To evaluate the impact of Rio+20, particularly on

² ‘Rio+20: The Earth Summit Diaries’, 21 June 2012, available at: <http://www.guardian.co.uk/sustainable-business/rio-20-earth-summit-diary-21-june>.

³ *Ibid.*

⁴ I. Morrison, ‘WWF Rio+20 Closing Statement’, 21 June 2012, available at: <http://www.worldwildlife.org/who/media/press/2012/WWFPresitem28214.html>.

⁵ L. Monroe, ‘Final Outcomes for our Oceans in Rio+20 Negotiations’, *NRDC Switchboard*, 19 June 2012, available at: http://switchboard.nrdc.org/blogs/lmonroe/final_outcomes_for_our_oceans.html.

⁶ NRDC Press Release, ‘Rio+20: Just a Starting Place for Real Action’, 22 June 2012, available at: <http://www.nrdc.org/media/2012/120622.asp>.

⁷ Cloud of Commitments, available at: <http://www.cloudofcommitments.org>.

⁸ Approximately 44,000 badges were issued for official meetings, though this number does not accurately reflect the actual number of participants, since an individual might obtain passes for several events. See IISD Reporting Services, ‘Summary of the United Nations Conference on Sustainable Development’ (2012) 27(51) *Earth Negotiations Bulletin*, available at: <http://www.iisd.ca/vol27/enb2751e.html>.

environmental law and policy, we should consider not only the differing venues and the many issues that were on the table, but also the historical context – the long road from the first Earth Summit.

2. THE 1992 RIO EARTH SUMMIT AND ITS LEGACY

Perhaps the accomplishments of the original Rio set too high a bar for Rio+20. The UN Conference on Environment and Development (UNCED), also known as the Rio Earth Summit, took place in Rio in 1992 amidst a very different political and economic era/atmosphere. Rather than a globe wracked by economic crisis and political strife, at the time of the original Rio Conference there was a promise of good things to come. The Cold War was at an end, the Berlin Wall had fallen and the Soviet Union had dissolved, and the European Union (EU) had advanced. Concerns about the environment were taking a prominent place in many countries and national environment laws had been enacted. At the international level, the UN Law of the Sea Convention (UNCLOS)⁹ was soon to come into effect after years of negotiations, and efforts to address other global (environmental) issues were prominent. Developed and developing countries often still espoused different world-views, North *v.* South, with poorer countries far more concerned with economic growth than environmental protection. Developing countries were feeling their new influence and flexing their muscles, viewing the Rio Conference as one that would revamp international (environmental) institutions and reorder priorities. The concept of sustainable development, derived from the 1980 World Conservation Strategy of the International Union for the Conservation of Nature (IUCN),¹⁰ had entered into general use through the Brundtland Commission Report of 1987¹¹ and was becoming a watchword for many concerned with development and the environment.¹²

The Rio Conference produced a variety of documents and provided a venue for the adoption of several key international conventions and agreements. For example, the parties to the 1992 Rio Conference produced Agenda 21,¹³ if not a blueprint for the future then at least some form of guidance on where the global community wished to go. Further, during the Conference, both the Convention on Biological Diversity (CBD)¹⁴

⁹ Montego Bay (Jamaica), 10 Dec. 1982, in force 16 Nov. 1994, available at: http://www.un.org/depts/los/convention_agreements/convention_overview_convention.htm.

¹⁰ IUCN, *World Conservation Strategy: Living Resource Conservation for Sustainable Development* (IUCN, 1980), available at: <http://data.iucn.org/dbtw-wpd/edocs/WCS-004.pdf>.

¹¹ UN World Commission on Environment and Development, 'Report: Our Common Future', UN Doc. A/42/427/Annex, published by Oxford University Press, 1987, also available at: <http://www.un-documents.net/wced-ocf.htm>.

¹² For a summary of the world situation in 1992, see P. Chasek & L.M. Wagner (eds.), *The Roads from Rio: Lessons Learned from Twenty Years of Multilateral Environmental Negotiations* (RFF Press/Routledge, 2012).

¹³ Available at: <http://www.un.org/esa/dsd/agenda21>.

¹⁴ Rio de Janeiro (Brazil), 5 June 1992, in force 29 Dec. 1993, available at: <http://www.cbd.int/convention/text>.

and the UN Framework Convention on Climate Change (UNFCCC)¹⁵ were adopted, and the Forest Principles¹⁶ were agreed. Among the many achievements of the Conference, however, the Rio Declaration¹⁷ was perhaps the keystone. In 27 short paragraphs, drafted by Singapore Ambassador Tommy Koh (who chaired the Preparatory and Main Committees and presided over the negotiations on Agenda 21), the Rio Declaration articulated a vision and commitment that offered hope of a better world to follow. Some of its most important passages have become icons of sustainable development, and have been restated and referred to in numerous subsequent documents. They include:

Principle 1

Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.

Principle 3

The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.

Principle 4

In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.

Principle 10

Environmental issues are best handled with participation of all concerned citizens . . . Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

Principle 15

[T]he precautionary approach . . . Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

Principle 25

Peace, development and environmental protection are interdependent and indivisible.

The UN Commission on Sustainable Development (CSD) was established to follow up on Agenda 21 and the other work initiated at Rio. Subsequently, the UN adopted its Millennium Development Goals (MDG) in 2000,¹⁸ which put the environment and sustainable development in a wider context. On the 10th anniversary of Rio, in 2002, the world again convened, this time in Johannesburg (South Africa), at the World Summit on Sustainable Development (WSSD). From that came the Johannesburg Plan of Implementation (JPOI),¹⁹ aimed at implementing the Rio commitments, and the Johannesburg Declaration on Sustainable Development.²⁰ The WSSD was a key event on the road to Rio+20 because it revealed the increasingly important role of civil

¹⁵ New York, NY (US), 9 May 1992, in force 21 Mar. 1994, available at: <http://unfccc.int>.

¹⁶ Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of all Types of Forests (Forest Principles), Rio de Janeiro (Brazil), 13 June 1992, available at: <http://www.un.org/documents/ga/conf151/aconf15126-3annex3.htm>.

¹⁷ Rio Declaration on Environment and Development, Rio de Janeiro (Brazil), 14 June 1992, UN Doc. A/CONF.151/26, available at: <http://www.unep.org/Documents.Multilingual/Default.asp?documentid=78&articleid=1163>.

¹⁸ Available at: <http://www.un.org/millenniumgoals>.

¹⁹ Available at: http://www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/POIToc.htm.

²⁰ Johannesburg (South Africa), 4 Sept. 2002, available at: http://www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/POI_PD.htm.

society and transnational governance, and foreshadowed the importance of the side events and the role of 'community and commitments' at Rio+20. But it also revealed the failures of the global community to implement Agenda 21.

The principles set out in the Rio Declaration have become a touchstone for those seeking to promote sustainable development and to protect our global environment. Perhaps it was too much to ask that a similarly lofty and inspiring declaration come out of Rio+20, although UN officials clearly hoped for something just like that – urging from the beginning that the outcome document be concise and compelling, aimed at the people.²¹ If not an expression of overarching ideals, then at least an articulation of specific goals, targets and objectives was desired. Some people argued that a set of Sustainable Development Goals (SDGs), akin to the MDGs, should be developed to be issued at Rio+20, although there was some concern that the SDGs might interfere with progress toward achieving the MDGs. Additionally, there were calls for an enhanced role for the UN Environment Programme (UNEP), along with changes to the governance structure for sustainable development.

3. THE ROAD TO RIO + 20

There are three elements, or pillars, that are integral to sustainable development: social, economic, and environmental.²² They are, of course, interlinked and many would suggest that the environment is the foundation on which the social and economic pillars rest. All three pillars were to be part of the discussions at Rio+20. The Conference was to focus on two themes: (i) a green economy in the context of sustainable development and poverty eradication; and (ii) the institutional framework for sustainable development. Seven primary issues of concern were identified: jobs, energy, cities, food, water, oceans, and disasters. The Conference was co-chaired by UN Ambassadors John Ashe (Antigua & Barbuda) and Sook Kim (Korea), and supported by Sha Zukang, the UN Under-Secretary-General for Economic and Social Affairs, and Secretary-General for Rio+20.

When the UN General Assembly laid out the plans for Rio+20, it directed that three Preparatory Committee meetings (PrepComs) be held to carry out the groundwork for the main conference, and appointed a Bureau and small Executive Committee to help to manage the PrepComs and the Rio+20 Conference itself. The first two PrepComs were held at UN Headquarters in New York, United States (US), in May 2010 and March 2011. The third took place in Rio just before Rio+20. After PrepCom II, various regional meetings took place to facilitate input into the process, including special sub-regional meetings for the Small Island Developing States (SIDS), which were making their voices heard in the Rio process, just as they have with the climate negotiations.

²¹ See Closing Remarks by Sha Zukang at the 2nd Intersessional Meeting for Rio+20, New York, NY (US), 16 Dec. 2011, available at: http://www.uncsd2012.org/content/documents/612Closing%20Remarks%20Mr%20Sha%20draft%2016%20Dec%201016%20am%20clean%20REV%20CLEAN%2014_for%20distribution.pdf.

²² See 'Report: Our Common Future', n. 11 above, and UN General Assembly, 2005 World Summit Outcome, UN Doc A/RES/60/1, 24 Oct. 2005, available at: <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan021752.pdf>.

To keep things moving between the PrepComs, Intersessional Meetings were held at the UN Headquarters in New York. The PrepCom Bureau sought public input and compiled over 6,000 pages of comments, then produced an initial draft report, *The Future We Want*, in January 2012, as the ‘zero draft’ text of a final outcome document for Rio+20. Spanning 19 pages, it contained 128 relatively short paragraphs and was made available for review and discussion by the delegations to the second Intersessional Meeting. Although discussion was intended to be limited to the general shape and structure of the zero draft, most delegates did not refrain from detailing their positions on its contents. Predictably, disagreements between developed and developing countries soon emerged, with the former emphasizing the criticality of pursuing growth in an environmentally sound manner, and the latter prioritizing economic concerns. While there seemed to be general agreement on the green economy theme, developing countries stressed that it could not trump their need to provide higher living standards for their peoples. It was not clear to many delegates how green economic ideas support their MDG priorities.²³

By the time the negotiations ended in New York and the delegations headed to Rio, the document had gone through numerous iterations and had grown substantially in size. The heavily bracketed paragraphs reflected the lack of consensus on two-thirds of the document. Further informal discussions and the final PrepCom did little to resolve the differences. When PrepCom III ended in Rio, just days before the Conference itself was to begin, a bloated document containing 286 paragraphs was turned over to the Brazilian hosts who were to chair Rio+20. More late-night negotiations ensued, brackets were removed, and a final consensus document was produced. Although many complaints were heard in the halls, the Conference endorsed the document, at 283 paragraphs and 49 pages. No delegation was prepared to pursue its concerns and reopen discussions for fear that the fragile consensus would evaporate and the whole document would come undone.

4. RIO+20 OUTCOME: *THE FUTURE WE WANT*

One may ask what meaning the final resolution of Rio+20, entitled *The Future We Want*,²⁴ holds for international environmental law. Depending on one’s point of view, the answer may be ‘not much’ or ‘a lot’. It must be noted that, like its predecessors (the Stockholm Declaration, the Rio Declaration and the Johannesburg Declaration), *The Future We Want* is not a treaty or any other type of binding document. It is a statement of hopes, aspirations, admonitions and promises, but it does not contain any binding commitments. References are made to many conventions and other agreements, but for the most part with the objective of reaffirming existing commitments.

²³ Venezuela, in particular, noted the complexities associated with the green economy concept, linking it to consumption patterns, power relationships, security and commodity-dependence. See IISD Reporting Services, ‘Summary of the First Intersessional Meeting for the UN Conference on Sustainable Development: 10–11 January 2011’ (2011) 27(2) *Earth Negotiations Bulletin*, p. 4, available at: <http://www.iisd.ca/download/pdf/enb2702e.pdf>.

²⁴ UN Doc. A/66/L.56, available at: <http://www.uncsd2012.org/rio20/thefuturewewant.html>.

For example, parties to the UNFCCC and its Kyoto Protocol²⁵ (paragraph 192), the CBD and the UN Convention to Combat Desertification (UNCCD)²⁶ are urged to fully implement their commitments under those instruments (paragraph 17). Similar encouragement is offered to the parties to UNCLOS and the related Fish Stocks Agreement²⁷ (paragraphs 159 and 169). The document stresses the importance of the rule of law (paragraphs 8, 10, and 252), and the parties, in reaffirming their commitment to the Charter of the United Nations,²⁸ do so ‘with full respect for international law and its principles’ (paragraph 7).

Reference is made on a dozen other occasions to international law, usually in the context of asserting that suggested actions should be in accordance with international law. For example, in referring to devising SDGs based on Agenda 21 and the JPOI, paragraph 246 provides that they should be consistent with international law and build upon commitments already made. But there is little in the document in the way of direct calls for new binding agreements or the development of law, nor is there much evidence of a grand vision for the future of environmental law and governance, particularly when compared with the vision that imbued the Rio Declaration principles.

The lack of a clear commitment to more effective and far-reaching implementation in the ocean provisions was a particular disappointment for delegates and NGOs that work on these issues. Ocean advocates and SIDS representatives were quite successful in bringing their concerns to the negotiating table, and their success is reflected in the substantial number of paragraphs devoted to their concerns, more than to any other thematic topic (paragraphs 158–177, oceans; paragraphs 178–180, SIDS). Provisions on illegal, unreported and unregulated fishing, ocean acidification, plastic pollution and marine protected areas are among those detailed in the Resolution. During the negotiations, there was also hope that the Conference would endorse the development of an agreement under UNCLOS to implement its provisions in areas beyond national jurisdiction. Although UNCLOS provides the legal framework for protecting and conserving the oceans and using their resources in a sustainable fashion, its reach in protecting marine biodiversity has been limited. When it comes to protecting marine biodiversity in areas beyond national jurisdiction (ABNJ), essentially the high seas, the Treaty’s conservation and management provisions (UNCLOS Articles 116–120) have not been well implemented. The initial draft of *The Future We Want* proposed by the PrepCom Bureau gave proponents hope of rectifying the situation. Its commitment was clear: ‘We agree to initiate as soon as possible, the negotiation of an implementing agreement to UNCLOS that would address the conservation and sustainable use of

²⁵ Kyoto (Japan), 10 Dec. 1997, in force 16 Feb. 2005, available at: http://unfccc.int/kyoto_protocol/items/2830.php.

²⁶ UN Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (UNCCD), Paris (France), 17 June 1994, in force 26 Dec. 1996, available at: www.unccd.int.

²⁷ UN Agreement for the Implementation of the Provisions of the [UNCLOS] relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, New York, NY (US), 4 Aug. 1995, in force 11 Dec. 2001, available at: http://www.un.org/Depts/los/convention_agreements/convention_overview_fish_stocks.htm.

²⁸ San Francisco, CA (US), 26 June 1945, in force 24 Oct. 1945, available at: www.un.org/en/documents/charter.

marine biodiversity in areas beyond national jurisdiction' (paragraph 80). The provision was strongly supported by NGOs, the EU, the G77 and China, and the SIDS. Standing in its way, however, was most notably the US.

The provision was hotly debated over many weeks, and in the end the final document provided only that the signatories would 'address, on an urgent basis, the issue of the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction including by taking a decision on the development of an international instrument under UNCLOS' (paragraph 162). Thus, there is no commitment to actually produce an implementing agreement, but merely to decide whether to develop one. There is no framework or substantial guidance that would be useful in shaping future negotiations, and the 'urgent basis' is by mid-2014. Ocean advocates were seriously disappointed, but took solace in having made at least some progress towards formal consideration of an implementing agreement.

On the climate change front, too, the SIDS took a potentially important victory. They have been especially vocal in arguing that a target of limiting global temperature increase to 2 degrees Celsius above pre-industrial levels is insufficient, and will result in increased damage to their island nations. The rallying cry has been '1.5 to stay alive'. No reference at all was made to temperature levels in the original document issued by the PrepCom Bureau, but 2 degrees was later inserted and became the focus of much debate. In the end, proponents of a 1.5 degree target succeeded in inserting the language in the final document, so that the target is between 1.5 and 2. SIDS delegates were generally pleased with this achievement, contending that it placed them in a stronger negotiating position in the next round of international climate change talks.

Finally, there was movement to develop new institutional frameworks for sustainable development, or at least to modify current frameworks. Improving integration of the three pillars of sustainable development was given special attention (paragraphs 75–76), along with improving coordination of the various international organizations, including the World Trade Organization (WTO) (paragraph 78). The role of UNEP 'as the leading global environmental authority that sets the global environmental agenda' (paragraph 8) is to be strengthened, and a 'high-level political forum' is to be established, replacing the CSD (paragraph 84). The details of all of this are yet to be decided.

In the end, no major legal changes came out of Rio+20; no significant shifts for international environmental law – no hard law. Moreover, many of the broader, governance- and policy-oriented changes – such as the reference to a 1.5 degree temperature rise target and the provisions on institutional reform – are preliminary. In that sense, not much happened. On the other hand, we now do have a heavily negotiated document that reflects the consensus of the world's countries about many aspects of (i) a green economy in the context of sustainable development and poverty eradication, and (ii) the institutional framework for sustainable development. Unlike the 1992 Rio Declaration, which outlined our goals and aspirations, it is a more detailed guidance of how we are to achieve those goals – more in the mould of Agenda 21, which it reaffirms. And, like the Rio Declaration and Agenda 21, it is the kind of soft law document that can provide a basis for legal arguments on many fronts. So, from that point of view, we may have achieved more than we now realize.

5. OUTSIDE THE CONFERENCE HALLS

Although Rio Centro was the focus of negotiations on the final outcome document, a great deal of the most interesting and productive activity took place in other venues. Hundreds of events and meetings occurred around the city: in universities, corporate boardrooms, law offices and the streets. Although they did not result in multilateral governmental agreements, they did include many thoughtful examinations of sustainability issues, and often resulted in voluntary commitments and partnerships aimed at advancing sustainability and environmental goals. A number of meetings focused on legal issues related to sustainable development and environmental protection.

At the Botanical Gardens, for example, a three-day World Meeting of Environmental Lawyers drew academics and other professionals from a number of countries to examine many aspects of sustainable development law. Organized by the International Centre of Comparative Environmental Law (Limoges, France), the Program on Law and the Environment of the Fundacao Getulio Vargas Law School (Rio de Janeiro, Brazil), and the Environmental Law Institute (Washington, DC, US), the programme was constructed around the themes of the Rio+20 UNCSD Conference – poverty eradication and environmental governance. Of special note was the discussion of a principle of non-regression in environmental policy and law, reflecting the commitment to prevent any weakening of environmental protection.²⁹ Although the principle did not make its way into *The Future We Want*, the concept received attention. Previously supported by the European Parliament,³⁰ NGOs,³¹ and the host Brazilian delegation,³² it is a notion that resonates with many environmental and sustainable development advocates and will no doubt be considered in future forums. Other legal issues covered at the meetings included corporate social and environmental responsibility, climate change and sustainable energy, disasters and environmental emergencies, corporate governance within the UN and the transformation of the UN ECOSOC.

A subsequent conference at the Fundacao Getulio Vargas Law School drew additional international participants to consider Legal Frameworks for Sustainable Development.³³ The discussion focused on such matters as promoting innovation through law, developing

²⁹ See, e.g., M. Prieur, 'Non-Regression Principle and Environmental Law', 22 Aug. 2011, available at: <http://iucncel.wordpress.com/2011/08/22/non-regression-principle-by-prof-michel-prieur/>; and the IUCN's online Non-Regression Principle Knowledge Forum, available at: http://www.iucn.org/about/union/commissions/cel/cel_news/?5888/non-regression-principle-knowledge-forum.

³⁰ European Parliament, Resolution of 29 Sept. 2011 on Developing a Common EU Position Ahead of the United Nations Conference on Sustainable Development (Rio+20), available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2011-0430&language=EN>.

³¹ Statements of the Major Group for NGOs in the Rio+20 process, of 27 Jan. 2012 and 20 June 2012, available at: <http://www.uncsd2012.org/content/documents/709ngo.pdf>, and <http://www.wwf.org.br/?31724/Statement-NGOs-Plenary-session-20th-of-June>.

³² Brazil Submission to the Rio+20 Preparatory Process, 1 Nov. 2011, available at: <http://www.uncsd2012.org/index.php?page=view&type=510&nr=227&menu=20>.

³³ Convened by the Fundacao, the Centre for International Environmental Studies of the Graduate Institute, Geneva (Switzerland), Pace Law School's Brazilian American Institute for Law and the Environment (White Plains, NY, US) and the Center for International Sustainable Development Law (CISDL), Montreal, Canada.

creative incentives to support sustainable practices and investments, and legal best practices in green economy initiatives – all aimed at attaining green economy goals. Events included the launch of several publications, including the International Development Law Organization’s Compendium of Legal Best Practices for the Green Economy.³⁴

Finally, mention should be made of events hosted by the Supreme Court of the State of Rio de Janeiro. An initial gathering of high-level government officials, NGO representatives and academics spent the day exploring issues of environmental law, with special emphasis on environmental compliance and enforcement. It was followed by the impressive UNEP World Congress on Justice, Governance and Law for Environmental Sustainability, at which senior judges, attorneys general and auditors general spent two days examining their roles in the implementation of sustainable development laws and programmes. At the conclusion of the Congress an outcome document was issued, entitled ‘Rio+20 Declaration on Justice, Governance and Law for Environmental Sustainability’.³⁵ Although not a consensus document, it reflects the tenor of the discussions and concerns raised by those attending. It notes the importance of an independent judiciary and the need for more effective national and international dispute settlement systems for resolving conflicts. Mirroring the commitment shown by many of the participants to advancing the cause of sustainable development and environmental protections, it asserts that ‘judges, public prosecutors and auditors have the responsibility to emphasize the necessity of law to achieve sustainable development and can help make institutions effective’. It also recognizes the non-regression principle. From a legal perspective, the work accomplished by the Congress was perhaps the most encouraging and progressive of Rio+20.³⁶

6. CONCLUSION

In the final analysis, the official Rio+20 UN Conference on Sustainable Development was anything but a runaway success. Still, it may have succeeded in providing a document that will reinforce and undergird subsequent efforts to achieve a sustainable future. While unexciting, it provides a baseline and a floor, establishing or reinforcing international norms on a host of issues. Beyond the Resolution document, and beyond the conference halls, civil society took things a step further, exploring the legal dimensions of the problems, engaging in meaningful discourse, building partnerships and communities for transnational governance. That, rather than the document itself, may outline *the future we want*.

³⁴ Available at: <http://www.idlo.int/Publications/ClimateChangeCISLMay2011.pdf>.

³⁵ Available at: <http://www.unep.org/delc/worldcongress/Portals/24151/Rio+Declaration.pdf>.

³⁶ For a detailed discussion of the Congress and Declaration see N.A. Robinson, ‘UNCSD (Rio+20): Reflecting on Measured Deliberations’ (2012) 42(4) *Environmental Policy and Law*, pp. 219–31.