

AMERICAN BAR ASSOCIATION
SECTION OF ENVIRONMENT, ENERGY, AND RESOURCES
REPORT TO THE HOUSE OF DELEGATES

RESOLUTION

- 1 RESOLVED, That the American Bar Association reaffirms its 1991 and 2003 commitments to
2 sustainable development, and defines sustainable development as “the promotion of an
3 economically, socially and environmentally sustainable future for our planet and for present and
4 future generations.”
5
- 6 FURTHER RESOLVED, That the American Bar Association urges all governments, lawyers,
7 and ABA entities to act in ways that accelerate progress toward sustainability.
8
- 9 FURTHER RESOLVED, That the American Bar Association encourages law schools, legal
10 education providers, and others concerned with professional development to foster sustainability
11 in their facilities and operations and to help promote a better understanding of the principles of
12 sustainable development in relevant fields of law.

REPORT

Introduction -- Sustainability in Context

Sustainable development has its origins in the conservation and environmental movements in the United States and other countries, in the laws that were adopted because of those movements, and in the lawyers that drafted and worked with clients to implement these laws. Long before the U.N. Conference on Environment and Development in Rio de Janeiro (UNCED, or Earth Summit), for example, the National Environmental Policy Act of 1969 declared a national policy “to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans” (42 U.S.C. § 4331(a)).

In a world with a growing economy and population, widespread poverty, and growing environmental degradation and greenhouse gas emissions, sustainable development will be increasingly important to lawyers and their clients. Thus, looking ahead, an understanding of and an appreciation for sustainability concepts and principles will be critically important for the legal profession. Sustainability is best understood as a framework (or a perspective, lens, or approach) for the integration or balancing of environmental protection, economic development and social justice. These are the three pillars or prongs at the core of every sustainability discussion. The 1987 report of the World Commission on Environment and Development (or Brundtland Commission, after its chair, Gro Harlem Brundtland of Norway), which led to the 1992 Earth summit, employed a widely used definition that emphasizes the intergenerational aspect of sustainable development. Development, it said, is “development that meets the needs of the present without compromising the needs of future generations.”¹

Many are familiar with the phrase “sustainable development,” and for good reason. At the Earth Summit in 1992, the United States and other countries endorsed sustainable development and agreed to further sustainability in their domestic and international actions. Two decades later, in 2012, at the U.N. Conference on Sustainable Development in Rio de Janeiro (Rio+20), the United States and other countries reaffirmed their Earth Summit commitment and also agreed on the need to accelerate action to achieve sustainable development.

For a time, “sustainable development” was the term used to imply operationalizing sustainability in most contexts, but more recently (and more appropriately) sustainable development is used primarily in the international context, where environmental protection and poverty reduction are twin goals, and there is a strong emphasis on the needs of less developed countries. As the ABA embarks upon its next phase of sustainability activities, it is important to understand that sustainability approaches in other contexts of interest to the legal profession are described with slightly different terminology and emphasis.

¹ WORLD COMMISSION ON ENVIRONMENT AND DEVELOPMENT, OUR COMMON FUTURE 47 (1987).

For example, sustainability as applied in the corporate business world is usually described as “sustainable business practices” or the “triple bottom line” – implying that the traditional single economic bottom line must now be reconciled with social and environmental considerations. “Corporate social responsibility” and “corporate citizenship” are closely related terms used interchangeably in the corporate sustainability context, with substantive emphases that vary based on an assortment of industry codes and voluntary standards.²

In the community setting, much progress has been made in the United States in advancing sustainability thinking through “sustainable community” initiatives. Outside the U.S., these efforts often have been called Local Agenda 21 initiatives (after the international plan of action for sustainability adopted at the 1992 Earth Summit). In the United States, sustainability is used to describe local approaches that focus on quality of life, including “smart growth” in land use planning.

Another arena that has embraced sustainability thinking in just the last few years is the financial sector. In that sector, sustainability thinking and activity is organized around the label “ES&G” (environment, social, governance), but there is no doubt that this combination equates to the three pillars of sustainability. Sustainability thinking has led to the requirement of sustainability reporting on various key stock exchanges and, at least in Europe, a re-thinking of the very meaning of fiduciary duty.³

Thus, the legal profession needs to understand how sustainability is applied in a variety of settings. In all of these settings, moreover, the term includes but is broader than the “rule of law” and “good governance.” The rule of law and governance discussion is well-established and important, but, to be effective, we must address all aspects sustainability in a variety of other settings. With this resolution, the American Bar Association expresses its intention to approach sustainability issues in a broader sense and within a more robust framework.

The definition of sustainable development used in this resolution -- “the promotion of an economically, socially and environmentally sustainable future for our planet and for present and

² INTERNATIONAL STANDARDS ORGANIZATION, ISO 26000—GUIDANCE ON SOCIAL RESPONSIBILITY (2010); U.N. Human Rights Council, Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, A/HRC/14/27 (2010), available at <http://www.reports-and-materials.org/Ruggie-report-2010.pdf>; ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT, OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES (2008), available at <http://www.oecd.org/investment/mne/1922428.pdf>
OECD report

³ See, for example, FRESHFIELDS BRUCKHAUS DERINGER LLP, AIMING EVEN HIGHER: CORPORATE SOCIAL RESPONSIBILITY REPORT 2011 (2011), available at http://m.freshfields.com/uploadedFiles/Locations/Global/Who_we_are/Reporting/CR_Report-2010-2011.pdf.

future generations” – captures this broader sense of sustainability. It is taken from the first paragraph of the official outcome document of the 2012 Rio+20 conference.⁴

In the United States, we do not yet have a comprehensive legislative framework that embraces sustainability. The National Environmental Policy Act of 1969, quoted above, is widely seen as providing the best current articulation of a unified environmental, economic and social perspective. Perhaps the leading edge of overall federal sustainability activity is Executive Order 13514, signed by President Obama in 2009,⁵ which directs federal agencies to set sustainability goals for their buildings and operations. Many believe that it will not be long before these efforts lead to the development in the United States of a national sustainability plan or national strategy on sustainability, along with the necessary institutional changes and supporting metrics. Nearly all other developed countries are already progressing toward sustainability through the use of national councils for sustainable development, sustainable development strategies, and sustainability indicators. Through the implementation of this resolution, the ABA will prepare itself and the legal profession for an inevitable transition to sustainability in both governmental and private sector decision making.

ABA Actions in Support of Sustainability

The ABA has enacted and approved 11 resolutions dating back to 1991, and particularly another broad resolution in 2003, that have continuously reaffirmed the commitment of the ABA to sustainable development. This resolution reaffirms the 1991 and 2003 resolutions to provide a foundation for the more wide-ranging and ambitious set of activities that it endorses, to ensure that this resolution is understood in its historical context, and to make clear the importance of accelerating progress toward sustainability.

The 1991 resolution, which was adopted prior to the 1992 Earth Summit, is worth quoting in full:

RESOLVED, That the American Bar Association

Urges the United Nations and each nation of the world to adopt and implement appropriate measures to ensure that activities within its jurisdiction or control will be conducted with respect for Nature, and in a manner that accounts for the interests of present and future generations; *to develop and foster policies and long-term strategic plans for sustainable development, encouraging the betterment of human life through conservation and efficient use of natural resources*; and to cooperate with other nations and with international

⁴ U.N. Conference on Sustainable Development, The Future We Want, ¶ 1, U.N. Doc. A/CONF.216/L.1* (July 24, 2012), available at https://rio20.un.org/sites/rio20.un.org/files/a-conf.216l-1_english.pdf.

⁵ Exec. Order No. 13,514, 74 Fed. Reg. 52,117 (Oct. 9, 2009). This executive order strengthens a 2007 executive order by President George W. Bush on the same subject. Exec. Order No. 13,423, 72 Fed. Reg. 3,919 (Jan. 26, 2007).

organizations in developing regional and world-wide arrangements to preserve and protect the environment and to mitigate the effects of environmental damage (emphasis supplied).

Perhaps the most prominent of the more recent resolutions is the 2003 resolution (A108) that was prompted by the ABA's participation in the World Summit on Sustainable Development, in Johannesburg, South Africa in 2002. The 2003 resolution recognized "that good governance and rule of law are essential to achieving sustainable development." It also encouraged "governments, including U.S. federal, state, local, tribal, and territorial bodies, as well as businesses, nongovernmental organizations, and other entities, to promote sustainable development, including by adopting and implementing appropriate measures with respect to their own facilities and activities." The concluding sentence in the 2003 Resolution Report captures the ABA's current position very well: "This resolution is important to the ABA because it positions the ABA to play a significant role in the United States internationally and supporting efforts to achieve sustainable development, including through partnerships with governments and other entities."

More recent resolutions have built on the foundation of the 1991 and 2003 resolutions, elaborating on the ABA's commitment to sustainability. For example, in 2008, the ABA House of Delegates urged "the United States government to take a leadership role in addressing the issue of climate change through legal, policy, financial, and educational mechanisms." The Report for that resolution explained that climate change presents not only environmental risks but economic, security, and social risks. The report stated: "To foster sustainable development, the United States should play a leadership role in addressing climate change." The most recent resolution adopted by the House of Delegates at the 2012 Mid-Year meeting dealt in part with sustainable development was Resolution 109. That resolution endorsed the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises. A key policy commitment in those guidelines calls on companies to "contribute to economic, environmental and social progress with a view toward achieving sustainable development."

Sustainable development has growing importance for lawyers and the practice of law. A law organization's involvement with sustainability can not only strengthen the organization's reputation or "brand," but its efficiency, productivity and employee recruitment and retention. It can more closely align the organization with the growing numbers of current and potential clients who are now embracing sustainability, and enable the organization to better understand and reflect the values of such clients and provide more effective counsel. Moreover, attention to sustainability can improve the organization's appreciation for the critical social, environmental and economic issues that lie ahead for society as a whole, and ultimately, for its clients and itself.

The report for the 2003 resolution also made clear that sustainability is important not only to environmental lawyers but all lawyers: "Applying sustainable development from a legal perspective means understanding, developing, and applying legal mechanisms that are relevant

to the complex relationships among economic, social, and environmental priorities. This suggests a cross sectional approach...that integrates a variety of legal specialties, including environmental, labor, property, tax, corporate, finance, international trade, and risk management.”

United Nations Conference on Sustainable Development

Approximately 45,000 individuals participated in the June 13-22, 2012 United Nations Conference on Sustainable Development (also known as Rio+20 because it marked the 20th anniversary of the 1992 Earth Summit). They included government officials from 191 UN member nations and 93 international government organizations. The Rio+20 Conference recognized that global environmental and development issues are even more profound than they were 20 years ago, and that technology is rapidly introducing new issues and solutions that were not even contemplated then.

On June 22, 2012, the conference approved an outcome document titled *The Future We Want*, A/RES/66/288) (which is a common vision for how sustainable development issues will be dealt with in the future by the United Nations. *The Future We Want* begins with a common vision. “We recognize that people are at the center of sustainable development and in this regard we strive for a world that is just, equitable and inclusive,” it states. “[W]e commit to work together to promote sustained and inclusive economic growth, social development and environmental protection and thereby to benefit all.” The next section of the agreement, “renewing political commitment,” essentially reaffirms the original Earth Summit commitments as well as commitments made in other conferences subsequent to the Earth Summit. The agreement then describes “uneven progress” in moving toward sustainability and recognizes the need to “accelerate progress.”

The Future We Want endorses greening the world’s economies, saying it “will enhance our ability to manage natural resources sustainably and with lower negative environmental impacts, increase resource efficiency and reduce waste.” It also endorses the U.N.’s “Sustainable Energy for All” initiative, which is intended, by 2030, to “ensure universal access to modern energy services, double the global rate of improvement of energy efficiency, and double the share of renewable energy in the global energy mix.”

The remaining sections of the document address means of strengthening international environmental institutions; describe a variety of issues on which further action is needed and planned; and address finance, technology, capacity-building, and trade, explaining the importance of using each of these on behalf of sustainable development. *The Future We Want* also commits to a variety of processes to reach agreement on key sustainability issues, such as strengthening the role of international environmental institutions and establishing sustainable development goals.

Although not all stakeholders were satisfied with the Conference's outcome, U.N. Secretary-General, Ban Ki-moon, presided over the conference and declared, "Let me be clear. Rio+20 was a success. In Rio, we saw the future evolution of an undeniable global movement for change." Mr. Ban hailed the outcome document, *The Future We Want*, as "an important victory for multilateralism after months of difficult negotiations." The President of the U.N. General Assembly, Abdulaziz Al-Nasser, of Qatar, said that "[i]mplementation is imperative if we are to attain the future we want. Now that the summit is over, the real work begins, and we all have our parts to play for ultimate success."

ABA at the 2012 Conference

The ABA approved a delegation to participate in the United Nations Conference on Sustainable Development (or Rio+20 conference) in Rio de Janeiro, Brazil June 13-22, 2012. Members of the ABA Delegation participated in a number of sessions and discussions throughout the Rio+20 conference and came away extremely impressed with the professionalism and weightiness of the discussions among the governmental and NGO organizations present there. The delegation members believe that the ABA must reaffirm prior policy commitments to foster and support sustainable development.

The Delegation also focused efforts on communicating developments to the broader SEER and ABA community. The Delegation created a live blog from the Conference during which Delegation members and guest bloggers provided updates and insight into developments in real time. The blog content can be seen at <http://ambar.org/EnvironRio>.

Continuing ABA Sustainability Activities

The Section on Environment, Energy, and Resources (SEER) continues and is expanding a variety of sustainability activities that it initiated after the 2003 resolution was adopted. These include:

- The ABA, in partnership with EPA, created the ABA-EPA Law Office Climate Challenge, a program to encourage law offices to conserve energy and resources, as well as reduce emissions of greenhouse gases and other pollutants. The ABA-EPA Law Office Climate Challenge was endorsed by the ABA House of Delegates in 2009. The Section also developed the ABA SEER Sustainability Framework for Law Organizations, in which a law organization commits to take steps over time toward sustainability. It has also published two surveys of law firm sustainability-related tools provided by state and local bar associations and other professional and community groups.

- The Section teamed with representatives of various ABA centers and groups, including its Center for Professional Responsibility, Center for Pro Bono, Law Practices

Management Section, Council for Racial and Ethnic Diversity in the Educational Pipeline, Commission on Sexual Orientation and Gender Identity, and the ABA Journal, to host a conference/teleconference on sustainability practices in law firms. The Section also worked with the ABA Law Practice Management Section to disseminate an article on law firm sustainability practices to ABA members.

- The Section gave presentations on sustainability practices in law firms to various state bar associations and at the Section's annual conference.
- The Section has begun to offer conference participants the option of purchasing carbon offsets, both to account for the carbon impact of their travel and to fund the One Million Trees Program (described below).
- The Section is preparing its first international environmental law publication which will survey environmental and sustainability law in approximately 45 nations and regions to provide a resource to attorneys around the world on how international environmental law regimes are developing.
- The Section is collaborating with the World Justice Project on producing the first environmental Rule of Law Index. Specifically, Section leadership and members are providing the substantive criteria which the WJP can assess the implementation and enforcement of environmental laws throughout the world.

The ABA is further promoting aspects of sustainability-- more specifically the economic and social responsibility of law firms-- through tools and other resources provided by various parts of the association, including but not limited to the following:

- Law Practices Management Section;
- Standing Committee on Pro Bono and Public Service; Center for Pro Bono;
- Center for Professional Responsibility;
- Section on Labor and Employment Law;
- Council for Racial and Ethnic Diversity; Advisory Council on Diversity; Commission on Racial and Ethnic Diversity in the Profession;
- Commission on Sexual Orientation and Gender Identity;
- General Practice, Solo and Small Firm Division;
- Commission on Lawyer Assistance Programs;
- Section on Individual Rights and Responsibilities; Center for Human Rights.

The Section of International Law is also involved in a wide variety of sustainability-related activities. These include, but are not limited to:

- Ongoing commitment to the International Legal Resource Center in collaboration with the United Nations Development Program.

- Rule of Law Activities, as supported by the Section Support Fund through the ABA Fund for Justice and Education, which implement numerous short- and long-term legal capacity-building projects around the world.
- Partnership in the Global Forum for Law, Justice, and Development, a “new, dynamic and innovative initiative spearheaded by the World Bank Legal Vice Presidency with the support of client countries, think-tanks, regional and international organizations, international financial institutions, and civil society organizations. The Section serves as an Intellectual Partner providing in-kind contributions (providing assistance peer reviews, research, publications, knowledge, trainings and/or seminars) on a number of thematic topics,” including sustainable development. See <http://ambar.org/globalforum>.
- Development and implementation of ABA policy on the UN Guiding Principles on Business and Human Rights.
- International Legal Exchange Program (ILEX).

Accelerating Progress: Agenda for Present and Future Activities

While the measures taken so far to advance sustainability are all helpful, there is consensus about the importance of accelerating progress. As already noted, the outcome document from the Rio+20 conference, *The Future We Want*, emphasizes the need to “accelerate progress” toward sustainability.⁶ Similarly, the parties to the 2012 Conference of the Parties of the U.N. Framework Convention on Climate Change agreed on the importance of “accelerating the reduction of global greenhouse gases.”⁷ The Environmental Law Institute’s most recent review of U.S. sustainability activities even provides a framework for actions to accelerate the transition to sustainability.⁸

This resolution is intended to supplement and elaborate on prior ABA House of Delegates resolutions, particularly the 1991 and 2003 resolution, and to support and give impetus to a more detailed, wider ranging, and more ambitious agenda for law and sustainability than is contained in those resolutions.

Governments. The U.S. government should take a leadership position in ongoing and future negotiations on sustainable development, including climate change. The United States has played a historic leadership role in the development and implementation of international law and international institutions. Ongoing negotiations relevant to sustainability include a variety of processes on specific issues established by the U.N. Conference on Sustainable Development

⁶ *The Future We Want*, *supra* note 4, ¶ 19.

⁷ Conference of the Parties, U.N. Framework Convention on Climate Change, Advancing the Durban Platform, FCCC/CP/2012/L.13 (Dec. 8, 2012), *available at* <http://www3.unog.ch/dohaclimatechange/sites/default/files/FCCCCP2012L13.pdf>.

⁸ JOHN C. DERBACH ET AL., *ACTING AS IF TOMORROW MATTERS: ACCELERATING THE TRANSITION TO SUSTAINABILITY* (Environmental Law Institute Press 2012).

(e.g., strengthening international institutions) and a new international framework to address climate change under the U.N. Framework Convention on Climate Change.

In addition, federal state, local, territorial and tribal governments should adopt or modify legislation, regulations and policies, to effectuate the transition to sustainability. Environmental, energy, and conservation laws have already caused progress toward sustainability for fish and wildlife, soil conservation, forestry, air and water pollution, waste management, energy efficiency, renewable energy, and other issues. A new generation of laws is needed to achieve sustainability on new and broader issues, including but not limited to climate change, biodiversity, and environmentally sustainable economic development. These laws also include the repeal or modification of laws that foster unsustainable development.

Lawyers. Lawyers, law firms and other law organizations should, among other things:

- Foster sustainability in their facilities and operations by reducing their environmental impact, saving energy, reducing greenhouse gas emissions, modeling social responsibility, and improving economic return at the same time;
- Consider and employ tools and best practices for the communication and adoption of sustainability policies and practices within law firms, such as ABA-EPA Law Office Climate Challenge,⁹ the ABA SEER Sustainability Framework for Law Organizations,¹⁰ and those of various state bar and non-governmental organizations. Bar associations in Massachusetts,¹¹ California,¹² and Pennsylvania¹³ have adopted lists of model sustainability practices. Oregon Lawyers for a Sustainable Future has published its

⁹ American Bar Association Section of Environment, Energy, and Resources, ABA-EPA Law Office Climate Challenge, http://www.americanbar.org/groups/environment_energy_resources/projects_awards/aba_epa_la_w_office_climate_challenge.html.

¹⁰ American Bar Association Section of Environment, Energy, and Resources, Law Firm Sustainability Framework, http://www.americanbar.org/groups/environment_energy_resources/projects_awards/model_law.html.

¹¹ Massachusetts Bar Association, The MBA Lawyers Eco-Challenge, <http://www.massbar.org/about-the-mba/initiatives/lawyers-eco-challenge> (last visited September 28, 2011); Massachusetts Bar Association, About CLF, <http://www.massbar.org/about-the-mba/initiatives/lawyers-eco-challenge>.

¹² State Bar of California, Voluntary State Bar of California Lawyers Eco-Pledge and Voluntary Law office Sustainability Policy (2008), available at <http://calbar.ca.gov/calbar/pdfs/bog/special/Eco-Pledge-Policy.pdf>.

¹³ Pennsylvania Bar Association, Pennsylvania Lawyers United for Sustainability (PLUS) Program, <http://www.pabar.org/public/sections/envco/plusprogram.asp>.

own model sustainability policy for law offices, which is directed at reducing their environmental impact.¹⁴

- Foster sustainability through existing and new public service and pro bono activities. An prominent example within the ABA is the One Million Trees Project, which involves tree planting projects around the country to improve quality of life and aesthetics in communities and address climate change.¹⁵
- Encourage and support sustainability efforts by their clients, and raise sustainability issues with clients at appropriate times. It is important for lawyers to raise sustainability issues with clients at appropriate times, and to be able to give them useful advice not only on legal compliance but also on options that sustainability and sustainability tools can provide for them.

American Bar Association entities. ABA entities should, among other things:

- Identify and develop tools, information, and guidance to assist lawyers, law firms, and other law organizations in discussing sustainability with clients. A major challenge for sustainability is to create and develop tools that lawyers can use to assist clients. These include a variety of financing instruments for renewable energy and energy efficiency, third-party certification agreements, and the like.
- Develop public recognition programs for exemplary sustainability practices by lawyers, law firms, and other law organizations. SEER has developed and expanded a variety of award programs, many of which include sustainability as a specific criterion in the judging of award applications. Recognition and award programs are an excellent way of encouraging and supporting sustainability activities in the practice of law.
- Develop and distribute educational materials and rating systems concerning the rule of law and sustainability in the United States and other countries. The ABA is expanding the number of books, other publications, quick teleconferences, online resources, and other educational materials that it provides concerning sustainability.

¹⁴ Oregon Lawyers for a Sustainable Future, Model Law Office Sustainability Policy (2006), available at http://sustainablelawyers.org/assets/sustainability_policy.pdf.

¹⁵ American Bar Association, One Million Trees Project, See http://www.americanbar.org/groups/environment_energy_resources/projects_awards/one_million_trees_project.html.

The continued expansion of these materials—in number, scope, and quality—would be of enormous benefit.

- Encourage and support efforts by ABA members to collaborate with international governmental organizations, foreign bar associations, and multinational organizations to share expertise in furtherance of developing an environmental rule of law and sustainability in developing and developed nations; and to exchange best sustainability practices by lawyers, law firms, and other law organizations.
- Foster sustainability in its own facilities and operations, including its annual, midyear, and section conferences. SEER now allows participants in SEER conferences to acquire carbon offsets to mitigate the greenhouse gas impact of travel and other activities related to these conferences. SEER staff also review potential hotels for SEER conferences for their commitment to environmental stewardship and sustainability. Although not widely known, operations in ABA headquarters in Chicago are also based on a commitment to environmental stewardship. These are examples of the kinds of activities that could be broadened and deepened.
- Actively participate and assist in implementation of the United Nations Sustainable Energy for All initiative, and the World Bank’s Global Forum on Law, Justice, and Development.

Law schools, legal education providers, and others concerned with professional development.

Law schools are already engaged in a growing number and range of sustainability activities. They are doing so in response to demand from outside the legal profession (clients, colleges and universities, nongovernmental organizations, and governments) and inside the legal profession (ABA and other bar associations; law firms and other law organizations; and current and prospective law students).¹⁶ The expansion and intensification of these efforts—by all legal education and professional development providers—is essential for accelerating the transition to sustainability.

Importance of Resolution to Sponsoring Committees/Sections

Section of Environment, Energy, and Resources. Because sustainable development is not a discrete category, like air quality or endangered species, the overarching, cross-cutting scope of the sustainability concept means that it is likely many Committees within the Section will increasingly address their specialized areas of interest within a sustainability framework. There are at least 16 Section Committees for which there is a direct subject matter analogue to a

¹⁶ John C. Dernbach, *The Essential and Growing Role of Legal Education in Achieving Sustainability*, 60 J. LEGAL EDUC. 489 (2011).

chapter in *Agenda for a Sustainable America*, a detailed assessment of U.S. sustainable development efforts published in 2009.

Section of International Law. SIL's activities long have manifested a deep commitment to promotion of sustainable development. The Section continues to pursue rule of law training and technical assistance projects around the world. Its writings and programs focus on improvement and understanding of myriad aspects of international law and policy relevant and necessary to sustainable development, from investment, finance and trade to human rights, the environment and human health. SIL considers promotion of sustainable development an essential mission of the ABA and, accordingly, seeks to work creatively and collaboratively with other ABA entities to pursue this goal and to enable ABA members to play active and effective roles. The Section's founding of CEELI and establishment of the International Legal Resource Center in collaboration with the United Nations Development Program reflect this commitment. SIL was pleased to initiate and coordinate ABA's participation in WSSD and efforts to work with the United States government before and since to promote and enable good governance and the rule of law. An express affirmation of ABA's ongoing commitment to the principle of sustainable development would facilitate SIL's ongoing efforts and help guide the design and implementation of the numerous relevant activities of the Section and the ABA as a whole.

Conclusion

This resolution is timely because it comes shortly after the June 2012 U.N. Conference on Sustainable Development, in which the United States and other countries reaffirmed their commitment to sustainable development. This resolution is important to the ABA, not only because it reaffirms ABA's significant role in achieving sustainable development and the increasing attention it is giving to the topic but also because it provides a specific and detailed framework for a wide range of sustainability activities of growing importance to the ABA, the law profession, clients, governments, and the public.

Respectfully submitted,

Alexandra Dapolito Dunn, Chair
Section of Environment, Energy &
Resources

August 2013

GENERAL INFORMATION FORM

Submitting Entity: Section of Environment, Energy, and Resources

Submitted By: Alexandra Dapolito Dunn, Chair, Section of Environment, Energy, and Resources

1. Summary of Resolution(s).

That the ABA reaffirm its 1991 and 2003 commitments to sustainable development, and adopts the internationally accepted concept of sustainable development, as recognized at the 2012 United Nations Conference on Sustainable Development: “to ensure the promotion of an economically, socially and environmentally sustainable future for our planet and for present and future generations.” The ABA urges all governments, lawyers, and ABA entities to act in ways that accelerate progress toward sustainability. The ABA also encourages law schools, legal education providers, and others concerned with professional development to foster sustainability in their facilities and operations and to help promote a better understanding of the principles of sustainable development in relevant fields of law.

2. Approval by Submitting Entity.

Approved by the Section of Environment, Energy, and Resources on April 19, 2013.

3. Has this or a similar resolution been submitted to the House or Board previously?

In 2003 the ABA adopted a resolution reaffirming the ABA’s 1991 commitment to sustainable development, and further encouraging governments, businesses and nongovernmental entities to promote sustainable development and recognizing that good governance and the rule of law are essential to achieving sustainable development. In August 2007, the ABA adopted a resolution urging governments, businesses, nongovernmental organizations and other organizations to integrate and consider Rule of Law Initiatives with global environmental issues. In 2008 the ABA adopted a resolution on urging the U.S. Government to take a leadership role in addressing climate change.

4. What existing Association policies are relevant to this Resolution and how would they be affected by its adoption?

The resolution adopted in 2003, on the basic principles of sustainable development, needs to be updated to reflect the report and implementation of measures considered at the 2012 United Nations Conference on Sustainable Development. This resolution continues the underlying emphasis on sustainable development principles and updates the steps necessary for ABA action.

5. What urgency exists which requires action at this meeting of the House?

The Association is on record supporting sustainable development and the rule of law. The ABA had a delegation in attendance at the 2012 UN Conference which reported on the need for further ABA action. On Earth Day April 22, 2013, the UN urged its 193 Member States to renew their pledges to honor and respect Mother Earth by promoting harmony with nature and sustainable development. Secretary-General Ban Ki-moon urged the UN General Assembly “to confront the hard truth that our planet is under threat.” He noted that the “unsustainable exploitation of natural resources is eroding fragile ecosystems, destroying biodiversity, depleting fish stocks by short-sighted commercial fishing and threatening marine food chains by raising the acidity in oceans.” Through this policy initiative the Association will be able to play a more effective role in Congress, the international community and elsewhere on sustainable development.

6. Status of Legislation. (If applicable)

There is no pending legislation dealing specifically with sustainable development, but various pieces of legislation will relate to the goals underlying sustainable development.

7. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates.

An action plan is being developed by the Section of Environment, Energy, and Resources in conjunction with the Section of International Law and the Section of Administrative Law & Regulatory Practice to implement the resolution.

8. Cost to the Association. (Both direct and indirect costs)

This resolution does not impose additional costs on the Association, as there are many steps that ABA entities can and are taking to promote sustainable development without incurring new costs.

9. Disclosure of Interest. (If applicable)

The sponsoring entity holds an active interest in and engages in activities that foster sustainable development generally, such as CLE programming, provision of ABA activities information to governments, NGOs and others, and development of policy resolutions. No individual associated with this resolution will benefit personally from adoption of this resolution.

10. Referrals.

As it was developing this Resolution and Report with Recommendations, the documents were circulated to representatives of the Section of International Law, Administrative Law & Regulatory Practice and Real Property, Trust and Estate Law. Circulation to all relevant ABA Sections is being made following this submission.

11. Contact Name and Address Information. (Prior to the meeting. Please include name, address, telephone number and e-mail address)

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12. Contact Name and Address Information. (Who will present the report to the House? Please include name, address, telephone number, cell phone number and e-mail address.)

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EXECUTIVE SUMMARY

1. Summary of the Resolution

This resolution reaffirm the ABA’s 2003 commitment to sustainable development, and adopts the internationally accepted concept of sustainable development, as recognized at the 2012 United Nations Conference on Sustainable Development: “to ensure the promotion of an economically, socially and environmentally sustainable future for our planet and for present and future generations.” The ABA encourages governments, businesses and other entities to adopt and implement legal and policy incentives to support and encourage sustainable development; urges the U.S. government to take a leadership position in ongoing and future negotiations on sustainable development, including climate change, and urges lawyers, law firms, and other law organizations bar associations to foster sustainability.

2. Summary of the Issue that the Resolution Addresses

This resolution reaffirms and expands on ABA policy adopted at the 2003 Annual Meeting. It provides for greater and broader activity by the ABA in response to the 2012 UN Conference on Sustainable Development as recommended by the ABA delegation’s July 2012 report.

3. Please Explain How the Proposed Policy Position will address the issue

This resolution continues the underlying emphasis on sustainable development principles, especially those that have evolved since 2003 and describes the steps necessary for future action by the ABA. While much ABA work in the arena has occurred since 2003, the new challenges presented by the UN’s 2012 report “The Future We Want” require that additional actions be urged, supported and taken.

4. Summary of Minority Views

None are known.