The role of principles for allocating governance levels in the 2002 World Summit on Sustainable Development

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The role of principles for allocating governance levels in the 2002 World Summit on Sustainable Development

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Abstract   The global deliberations on sustainable development took another step in their more than 20-year history at the United Nations Conference on Sustainable Development held in Rio de Janeiro in June 2012. A recurrent dimension of these negotiations is the allocation of governance to one or more specific levels in the outcome document. This allocation reflects the international consensus on who at what level should do what in sustainable development, and it has implications for both the effectiveness and legitimacy of sustainable development governance. This paper investigates the negotiation process and outcome of the conference preceding Rio + 20, the 2002 World Summit on Sustainable Development, analysing the extent to which normative principles played a role in the allocation of governance to specific levels. This was done through qualitative and quantitative analyses of the different drafts of the outcome document. The results show that, although there were clearly limited explicit discussions on principles, it was possible to infer elements of several normative principles for allocating governance in the arguments and outcome of the negotiations. Most prominent among these principles were national sovereignty, but both the principles of substantive and procedural subsidiarity could be detected as well as the principles of fit, culpability and capacity.

Abbreviations
CBDR	Common but differentiated responsibility and respective capabilities
CSD	Commission on Sustainable Development
EU	European Union
GEF	Global Environmental Facility

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IGO	Inter-governmental organization
JPOI	Johannesburg Plan of Implementation
JUSCANZ	Japan, USA, Canada, Australia and New Zealand
PrepCom	Preparatory Committee
UNCED	United Nations Conference on Environment and Development
UNCSD	United Nations Conference on Sustainable Development
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change
WSSD	World Summit on Sustainable Development

1 Introduction

The patterns of governance in the world are becoming increasingly complex, partly as a consequence of processes of global environmental change and its manifestations in closer linkages between people, processes and their environment across time and space, processes in turn intimately linked with globalization processes in social systems (Giddens 1990; Held et al. 1999; Rosenau 2000). One aspect of this complexity can be found along the vertical 'scale' of social organization or governance; from the local, national, regional to the global, where governance—including policy, rules and action—for particular issues engages multiple levels of governance. Governance has become multilevel, but this does not mean that it has become more effective or legitimate. The way that governance is shared among levels (what is expected of whom at what level) has implications for the quality of governance, both how good it is at influencing the problem-solving ability of actors (effectiveness) and how justified the exercise of authority it is considered to manifest (legitimacy) by those who are affected by its consequences. Moving from an ad hoc approach of multilevel governance to a more conscious approach of multilayered governance—a system of co-ordinated, collective governance across levels (Karlsson 2000)—is a possibility that has received limited attention, but it is in this context that the reasons why governance should be allocated to specific levels gain prominence.

The principles for dividing responsibility along the vertical scale of governance have long been subjected to philosophical and political deliberation, particularly regarding federal states. However, it is only in the last few decades that it has been more explicitly addressed in the international setting, particularly in the European Union (EU) discussions on multilevel governance and subsidiarity. The political context for allocating governance to the global level is, however, different from the EU and subjected to particular obstacles linked to sensitivities around national sovereignty and unequal power, resources and capacities of states. This is well illustrated in the global negotiations on sustainable development that started with setting the agenda in Rio in 1992 at the United Nations Conference on Environment and Development (UNCED), regularly re-evaluating, readjusting and expanding the agenda at annual meetings of the Commission on Sustainable Development (CSD), Rio + 5 in 1997, the World Summit on Sustainable Development (WSSD) in Johannesburg 2002, and again in Rio + 20, the United Nations Conference on Sustainable Development (UNCSD) in Rio de Janeiro in 2012.

The major action plans coming out of this process, Agenda 21, the Johannesburg Plan of Implementation (JPOI) and the Future We Want, contain normative text allocating governance to specific levels and can, therefore, be seen as efforts to address the multilevel

governance challenge that sustainable development presents. Each substantive issue is accompanied with references to specific actors associated with specific governance levels, or with references to one or more levels of governance in more general terms. Furthermore, for Rio + 20, the institutional framework for sustainable development was one of two major themes (the other being the green economy), and the deliberations were mandated to grapple with strengthening global institutions as well as the institutional framework across all levels of governance (United Nations General Assembly 2010).

The 20 years of deliberations and negotiations on sustainable development since 1992 cover a very broad agenda ranging from its social and economic to its environmental dimensions. Furthermore, the resulting action plans contain recommendations for actions across all governance levels from the local to the global on a number of very different issues. This concentrated prism of international negotiation provides a good source for analysing the process of negotiating the allocation of governance levels: who is given responsibility to do what at what governance level(s).

The objective in this paper is to look at the midpoint in this negotiation process—the outcome of the WSSD[1]—and assess the role of normative principles in the allocation of governance for specific tasks or responsibilities to individual or sets of levels. In the next section, I elaborate some of the possible normative principles for allocating governance to specific levels, before outlining the methodology in section three. In the fourth empirical section, I present the results of quantitative and qualitative analyses of the allocation of governance to particular levels in the WSSD negotiations and outcome. The empirical analysis is recast in the light of the possible principles for allocating governance in the fifth section, followed by some concluding remarks.

2 Principles for allocating governance

The allocation of governance to particular levels is a challenge both for normative analysis and governance, as it is usually no longer sufficient for agents at one single governance level to be solely responsible, particularly for globalized issues such as sustainable development challenges (Karlsson 2007). In the following, I examine six principles for allocating governance which have been explored in the theoretical and normative literature, and in some cases also applied in governance. The first two are principles of subsidiarity, which has a long history in philosophical texts and has been explicitly applied in the EU. The third is built on the arguments for an appropriate 'fit' between ecosystem characteristics and governance that has been discussed in the literature and practice of environmental management. The last three principles can be found in discussions on allocating governance for issues considered to be global and includes three partly alternative or complimentary principles—culpability, capability and concern. All of these principles focus on addressing an issue in the most effective and/or legitimate (or ethical) way and contrast with the one principle that strongly dominates considerations of allocating governance between particularly the national and international/global level; the principle of state sovereignty. This latter principle is not discussed separately as it is well established, but is included in Table 1 and in the analysis of the negotiations.

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[1] The mandate of the WSSD was to make a 10-year review of Agenda 21 and other outcomes of the Rio process and "focus on the identification of accomplishments and areas where further efforts are needed to implement Agenda 21 and the other results of the Conference, and on action-oriented decisions in those areas" (United Nations General Assembly 2001: 3).

Table 1 Selection of principles for allocating governance between levels

Principle	Definition/rationale	Underlying motivation	Source/application
Substantive subsidiarity	Decision-making should be made as near as possible to the citizens	Legitimacy	European Union
Procedural subsidiarity	Action at the higher level when lower levels do not have capacity to act or are not willing to take action	Effectiveness	European Union
Fit	Match between institutions and biogeophysical systems	Effectiveness	Environmental management (e.g. river basin management)
Culpability	Actors who are at all culpable for a problem should take on a considerable degree of responsibility to address it	Legitimacy (fairness burden of responsibility)	Element of the CBDR[a] principle in the Rio Declaration and the UNFCCC[b]
Capacity	Actors with the capacity to do something in an effective or efficient way should take action	Effectiveness (those who are able to take action need to do so)	Element of the CBDR principle in the Rio Declaration and the UNFCCC
Concern	Action taken based on the feeling of concern for or empathy with those who suffer also beyond state borders	Legitimacy (concern for the victims motivates action)	Basis for much private contribution to humanitarian aid
National sovereignty	States are sovereign over their territory	Legitimacy (binding supranational governance is not seen as legitimate)	In most aspects of international relations and global governance

[a] The principle on common but differentiated responsibilities and respective capabilities

[b] The United Nations Framework Convention on Climate Change

2.1 Subsidiarity

A prominent stream of research that focuses on the theoretical and normative reasons for allocating governance to particular levels is the analysis of the principle of subsidiarity and its application in the EU (Blichner and Sangolt 1994; Føllesdal 1998; González 1995; Scott et al. 1994; van Kersbergen and Verbeek 1994, 2004; Katcherian 2012). Subsidiarity is about finding the most appropriate level(s) of governance according to certain criteria. These criteria can usually be linked to legitimacy and/or effectiveness. The subsidiarity principle emerges in the Maastricht Treaty, in which it has two different connotations.[2] The first is what Scott et al. (1994) call a substantive principle prescribing that decision-making should be made as near as possible to affected citizens in order to 'close the democratic deficit', thus a criterion for allocating governance linked to legitimacy. The second usage is as a procedural principle, prescribing that the European Community shall only take action if Member States cannot achieve the intended objectives and these 'can, therefore, by reason of the scale or effects of the proposed action, be better achieved by the

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[2] After its incorporation in the Maastricht Treaty adopted in 1992 a protocol with its application was annexed to the 1997 Amsterdam Treaty. At a later stage, it was included in the Charter of Fundamental Rights of the European Union adopted in 2000 (Carozza 2003).

Community.'[3] The procedural principle has been interpreted so that action should be taken at the level at which it is most effective. It further implies that action should be taken at a higher level when lower levels cannot achieve the set goals in isolation, either because lower levels do not have the capacity or because they are not willing to take action due to different priorities. This principle now seeks to delineate the geopolitical level of policy making in the EU and 'is found discursively in almost all EU policy documents' (Katcherian 2012: 271).

There is nothing inherent in the concept that precludes its use in discussing the allocation of governance across all levels, from the local to the global and to a combination of several levels. Knight (1996) lays out a potential subsidiarity model of global governance as an overarching framework that extends well beyond different layers of state governments to involve non-state actors, individuals, civil society, regional and trans-regional entities, as well as the United Nations. Carozza (2003) contends that subsidiarity is applicable whenever a community is incapable of achieving a common good in a self-sufficient manner. He contrasts the subsidiarity approach and its model of assistance and cooperation among various levels of governance with the sovereignty-oriented paradigm where larger and more universal forms of human association are seen to be in competition with smaller local ones. Scholars have discussed the principle of subsidiarity in global governance in relation to issues such as migration (Bader 2012), earth system governance (Spagnuolo 2011), human rights (Carozza 2003), trade governance (Howse and Nicolaidis 2003; Rollo and Winters 2000) and peacekeeping (Knight 1996).

2.2 Fitting ecosystems with governance

There has also been considerable attention paid to the allocation of governance in literature specifically devoted to environmental management, such as in the work on 'environmental federalism', see for example Biermann (2002) and Esty (1999) and in the work on 'scale' and 'fit', for example by Benson and Jordan (2010), Young (2002), Cumming et al. (2006) and Folke et al. (2007). The concept of fit refers to the match between institutions and biogeophysical systems and is closely linked to the proposition that the effectiveness of environmental and resource regimes are 'determined in considerable measure by the degree to which they are compatible with the biogeophysical systems with which they interact' (Young 2002: 55). From this follows that when there is a lack of fit, or a mismatch, between these two entities, the institutions will not have the intended impact on the quality of the resource or ecosystem, and degradation will continue.

Spatial fit is the concept most commonly discussed. It refers to the need to match the boundaries of a management regime with the boundaries of the ecological entity it is designed to manage and has been a key argument in efforts to redesign institutions (Moss 2003). The idea around spatial fit is closely linked to economic theories of collective action and externalities. The 'fit' between a problem's physical span and the governance level has been considered a major part of the effectiveness element of subsidiarity, indeed, the principle of subsidiarity was first applied in the EU for environmental issues (Golub 1996; Jordan 2000). The principle is reflected in the EU water framework directive's approach to integrated river basin management (Nielsen et al. 2013). This idea of river basin management, however, dates back to the 1930s (Moss 2003). In recent decades, it has been used either explicitly or implicitly in the many arguments and efforts that have been made

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[3] Article 3b (2), Treaty of the European Community.

to establish global regimes that would take into account the global span of certain environmental systems at risk, for example for the climate system.

2.3 The three c's for global issues

A number of scholars who consider the particular case of allocating governance for issues that are considered global in some sense have sought to identify principles that could be applied to determine where governance is partly or particularly needed at the global level. Three principles that have been identified for this purpose are the culpability, capacity and concern principles, as summarized in Karlsson (2007).

The culpability principle links to global justice theory (Follesdal and Pogge 2005) and the notion that actors who are to some degree culpable for a problem, whether in a direct physical or indirect moral sense, should take on a considerable degree of responsibility to address it.[4] The application of this principle demands considerable information to establish who is directly responsible for a certain problem. The determination of moral responsibility is even more challenging, as it would depend both on agents' awareness and acceptance of their causative role and on their potential to act differently. The principle's application would also need to involve considerations of how to divide culpability between individuals and institutions. How much freedom to act is there for individuals captured in an institutional setting of rules and how much sacrifice (for example, in financial terms) is it reasonable to expect from actors to avoid causing harm to others (Karlsson 2007)?

The capacity principle takes a more neutral position on who is culpable for a problem and instead focuses on who has the capacity to do something about it in an effective or efficient way (Barry 2005). Applying this principle depends on the possibility of identifying the necessary measures to address a problem and which actors are best able to carry these out, for example, identifying who has access to the necessary human, financial and technical resources (Karlsson 2007). This principle has strong affinity to the procedural principle of subsidiarity in its focus on finding the agent(s) and level(s) of governance that have the capacity and thus is most effective in addressing an issue. However, the allocation of governance to the global level faces much stronger political resistance than does the EU level in Europe. At the same time, an argument often raised is that this is exactly what is required in order to address such issues as global injustice (Mertens 2005) or degradation of the earth system (Biermann 2002; Held 1995).

Finally, *the concern principle* is based on the feeling of concern or empathy with those who suffer the consequences of, for example, unsustainable development.[5] This principle requires that agents are aware of cause-effect links behind drivers and impacts and also have some capacity to take action (Karlsson 2007). The motivating concern can either be based on some degree of self-interest or enlightened self-interest if the people with whom an agent identifies and associates him/herself—such as family, friends or fellow citizens— are among those who will suffer from the impacts. Concern can, moreover, be based more on altruism and empathy and thus encompass people, however far away they live and even humanity as a whole.[6] For collective actors such as states, this principle would imply

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[4] The culpability principle has also been referred to as the contribution principle in the literature, see for example Barry (2005).

[5] Barry (2005) refers to the concern principle as the association principle.

[6] Such an outlook is explored, for example, in the literature on global citizenship (Dower and Williams 2002) and cosmopolitanism (Nussbaum 2002). For a discussion on theories of human altruism see Monroe (1996).

taking into consideration the suffering of citizens of other states, whether this is based on recognition of increased global interdependence, thus some type of enlightened self-interest, or genuine concern for the welfare of others.

3 A content analysis of the JPOI: objective and methodology

The international negotiation process for the WSSD formally started with the first Preparatory Committee (PrepCom I) in April 2001, followed by PrepCom II, III, and IV between January and June 2002. In this process, states negotiated what would become the JPOI. The JPOI is a plan of action of 170 paragraphs on 72 pages divided into 11 chapters. The topics cover the social, economic and environmental dimensions of sustainable development and address many of the problems that humanity is grappling with. It is not a legally binding document, but rather falls under the category of soft law thus containing only recommendations many of which are assigned to specific governance levels.

My objective is to assess whether the allocation of governance for specific tasks or responsibilities to individual or sets of levels in the WSSD negotiations reflect any normative principles (see Table 1). This objective is especially challenging as there is no access to the 'real' negotiations that often take place behind closed doors or in corridors. This limits detailed exploration into which countries or country groups had particular preferences concerning particular levels and why. What is possible is analysis relying on partial observation, secondary reports on the negotiations and, primarily, different versions of the negotiation document. These methods were used to approach the objective in two indirect ways:

- analyse issues for which it was contentious to allocate governance levels
- analyse issues for which it was easy to reach consensus to allocate governance levels

In each of these approaches, I traced explicit or implicit linkages to the normative principles for allocating governance.[7] This analysis was primarily based on qualitative text analysis. However, I also carried out a quantitative analysis in order to provide a broad overview of the frequency at which governance levels were captured in the negotiations. This methodology should be applicable to other negotiation processes where responsibility is allocated to specific levels.

The quantitative text analysis was made of the first official version of the Chair's paper (Commission on Sustainable Development 2002c), covering the future chapters I–X of the JPOI, as well as the first version of Chapter XI on the institutional framework released at PrepCom III (Commission on Sustainable Development 2002d), and the final JPOI with all its eleven chapters (United Nations 2002). The analysis focused on the most explicit way in which the JPOI describes the allocation of governance, for example, that policy, institutions or actions are desired at specific *individual levels*, or *combination of levels* of governance. The quantitative analysis is confined to the local, national, subregional, regional and global/international level, plus the concept 'all levels'. When analysing the global level, I placed 'international' and 'global' in the same category. Furthermore, I excluded the following terms: community level, operational level, micro–meso level, trans-regional level, all of which are more difficult to place along the governance scale and most of which were only mentioned once in the text. 'Subnational' is a denotation used infrequently and

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[7] In another paper, see Karlsson-Vinkhuyzen (2012), I focus on how the negotiations dealt with integration of governance between different levels, in terms such as coherence, coordination, etc.

also not defined in the text. Although 'subnational' can denote the state level in federal units or the subnational regional units (provinces, etc.), it may also include the local level, and for reasons of simplification, I assign it to the same category as local. The phrase 'all levels' sometimes refers to other scales than that of governance, such as all levels of education, and these have been excluded in the analysis.

The qualitative analysis was based on available versions of the negotiation text for the JPOI from all PrepComs and the WSSD itself.[8] Additional sources were the newsletters of two NGOs that followed the negotiations.[9] For the purpose of the analysis, I divided the text into three parts (part three is a subset of part one). The first part covered the first ten substantive chapters of the JPOI, the second part covered chapter 11 on the institutional framework and the third part covered chapter IV that addressed 'Protecting and managing the natural resource base of economic and social development'. This separate analysis of chapter IV (which included a quantitative analysis as well) was made in order to enable a more detailed analysis of the possible use of the principle of fit between institutions and biophysical systems in the form of specific natural resources.

In the qualitative analysis, I looked at how individual paragraphs evolved over time. States proposed alternative suggestions or bracketed (indicating disagreement) suggestions made by other states. In this way, it was possible to follow how specific levels of governance were added and deleted over time. The qualitative analysis was primarily, but not exclusively, focused on paragraphs where there was an explicit mention of 'levels'. There are many ways in which the text describes where along the governance scale action is sought and some of these do not explicitly use the word 'level', but rather other words and expressions that are clearly associated with specific levels, and these were also analysed.[10] In the early stage of negotiations, the negotiation texts and the monitoring newsletters included references to the country or coalition of countries that suggested a text element or its deletion. In the later stages, negotiations were more sensitive and mostly conducted in informal contact groups with no NGO observers present or in official working groups with observers who could not disclose the origin of proposals. For sensitive issues such as oceans, energy and trade, negotiations were always carried out behind closed doors.

4 Governance levels in the JPOI: an overview

The results of the analysis are presented as follows. First, I give a brief overview of how governance levels appear in the JPOI. Then, I take a closer look at each governance level and the major consensus and contentious issues associated with it. This closer look is first made for the ten substantive chapters of the JPOI and subsequently for the eleventh chapter that addresses the institutional framework. Thirdly, I make a more detailed analysis of chapter IV on the management of natural resources and lastly, I consider how combinations

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[8] In some cases, these were officially listed on the WSSD website, in other cases, copies were circulated among delegations during the negotiations. I obtained copies these either on the site of the negotiations or in January 2004 from the archived files of the Swedish Ministry of the Environment, all of which are kept on file with the author. Although some of these documents have no named author, I have given 'Commission on Sustainable Development' as the author.

[9] Earth Negotiation Bulletin by the International Institute on Environment and Development, IIED and Outreach by the Stakeholder Forum for Our Common Future.

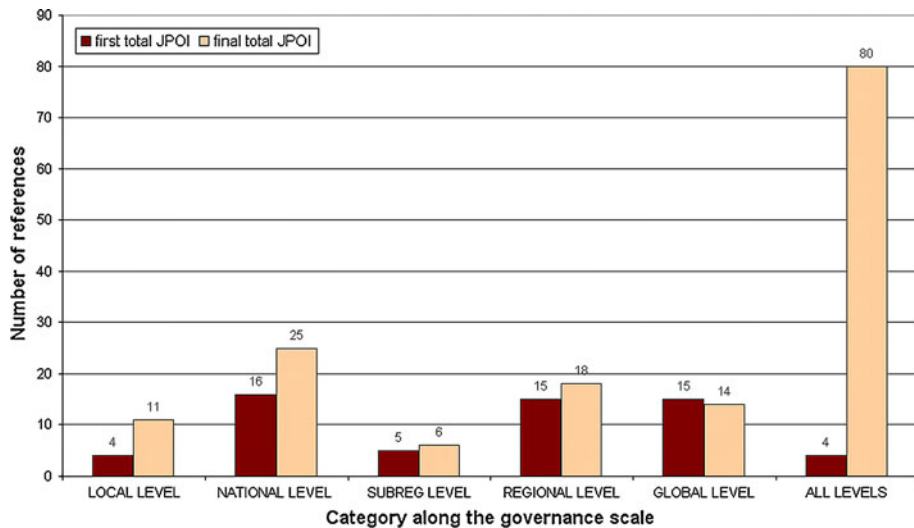[10] These were not part of the quantitative analysis.

Fig. 1 Governance levels in the first and final versions of the JPOI. *Note* The figure shows the number of references to each level, both when it is mentioned individually and in combination with other levels in the first and last version of the JPOI. The first version is composed of the Chairman's paper dated 12 February 2003 that covered the future chapters I–X together with the first version of Chapter XI released by Vice-Chairs Engfeldt and Anaedu in the first week of PrepCom III. The final version is the JPOI

of levels appear in the text. The synthesis of the results is then analysed in relation to the various principles of allocating governance elaborated above.

The quantitative analysis illustrated in Fig. 1 shows that in the final JPOI, the national level dominated—with the exception of 'all levels'—followed by the regional, global, local and lastly, the subregional level. The comparison between the first and last versions of the JPOI gives an indication of what happened to references to specific levels during the negotiations. The biggest change was the reference to 'all levels', which was absent in the first version in the Chair's paper (it was used in the first version of Chapter XI). There were slight increases in all the other levels except the global level.[11]

The qualitative analysis of the text shows that the allocation of governance emerges most clearly in two ways. It is used to designate at what level(s) particular actions should be taken—or supported, promoted, encouraged, etc.—and it designates particular roles or responsibilities to actors associated with particular governance levels, such as national governments, inter-governmental organizations (IGOs), local authorities, or even indigenous and local communities.

4.1 The global level—between acclamation and resistance

In quantitative terms, the global/international level only ranks third in the JPOI text. There was no increase in reference to it over the course of the negotiations, although there are numerous instances of reference to it without using the term itself. Many paragraphs

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[11] As the length of the text increased substantially from the first to the last version—the number of total words increases roughly four times—each level should have increased if negotiators had been happy with the allocation between levels in the first version by the Chair. Since they only marginally increased, or even decreased in the case of the global level, it is clear that the phrase 'all levels' took over.

promote international cooperation on a wide variety of issues, for example, among IGOs per se or in their efforts to support developing countries in various fields. There are many references encouraging countries to accede, ratify and implement various international agreements and a few references to improving further international regulation, for example, on maritime transport of radioactive material. Furthermore, there are calls for strengthening international networking, supporting international scientific assessments and a number of international actors are encouraged, invited, etc., to take on certain tasks.

While negotiators agreed on the need for governance at the global level in a number of cases, many of these issues as well as others met with significant contention when raised for the global agenda, and even more for setting global targets and/or committing global action addressing them. The most contentious issues never made it to the final text. Many of those can be clustered into one of three groups: targets, legal frameworks and finances. Every proposal to add a new global target faced fierce negotiations and some of them were traded off against each other. The target to halve the number of people without access to sanitation by 2015 survived, but the target to increase the number of people with access to energy was lost on the negotiation table.[12] Proposals to establish an international legal instrument on heavy metals and an international framework for corporate responsibility were rejected. Two proposals of less formal frameworks—an international 'mechanism' on water and multi-stakeholder dialogues for mountain development—quickly disappeared. A proposal on global public goods by the EU was first inserted in the section on finances where it met with fierce resistance. It was considerably watered down and moved to the section on science. Finally, every proposal that included a role for the international community in mobilizing resources, providing support etc., had the potential of becoming an issue of North/South contention, as this implicitly refers to resources from developed countries.

In the chapter on the institutional framework, the WSSD created no new global institutions in the same way as the Stockholm Conference (1972) created the United Nations Environment Programme (UNEP) and the Rio Summit (1992) the CSD. Rather, it elaborated on the role of the UN General Assembly, the UN Economic and Social Council and particularly, the CSD that was charged to put more emphasis on fostering 'coherence of implementation, initiatives and partnerships', 'actions that enable implementation at all levels' and providing a forum for 'better integration of policies' (United Nations 2002: 145–147). The institutional chapter also addresses the role of international institutions in a broad sense, focusing on how to foster horizontal integration of sustainable development among institutions both within and without the UN System.

4.2 The regional level—loved by all

The regional level ranks second among levels in the JPOI. However, it is not referred to in isolation except in chapter XI—where it has its own section heading (see below)—but always comes as an addition after a listing of other levels, preceded by the words 'when appropriate'. Regional words are particularly used in connection with ocean issues, where regional cooperation and coordination, strengthening of regional organizations, etc., are encouraged. Other references include the strengthening of regional trade and cooperation agreements and promoting networks between centres of excellence on energy for sustainable development. Very few of the proposals calling for regional action were

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[12] The renewable energy target remained in a qualitative form without any percentage given on how much it should increase (United Nations 2002: para 20e).

disapproved. The JPOI also contains separate sections on all five UN regions, and a separate one on Small Island Developing States, a new feature compared to Agenda 21.

The regional preparatory meetings, notably those in Asia and Africa, came out strongly for a regional dimension, and arguments for stronger regional cooperation were voiced by a variety of actors, from large country groups such as the EU to the small island state of Nauru. Regional institutions are referred to in the JPOI but are never given sole responsibility for a task, only together with other levels. In the institutional chapter, there was strong encouragement for developing regional sustainable development strategies and action plans to be led by the United Nations Regional Economic Commissions. The text assigns several broad tasks to regional and subregional institutions, including financing and implementation.

4.3 The subregional level—marginal yet uncontroversial

The subregional level has a meagre presence in the JPOI, ranks lowest of all levels and is never referred to in isolation, only in combinations with other levels. 'Subregional' is included in lists that call for strengthening support and building capacity on several issues linked to science, education, disaster and water management, and particularly marine issues. In addition, the text sections on specific regions contained references to some subregional initiatives and conventions. The role of subregional institutions was added in the chapter on the institutional framework—always by Australia—to almost every instance where regional institutions were given responsibilities. Even though the subregional level is very infrequently mentioned in the text, there are no signs that its inclusion led to any major contention. There were only a few text paragraphs where the subregional level had been proposed yet later deleted, although the substance of the paragraph remained. This included the main paragraph on indicators that in the end excluded all but the national level (see below).

4.4 The national level—dominant yet contentious

There were slightly more references to the national level than to the regional and global levels in the first version of the negotiation text, and during the course of negotiations, its dominance among individual levels strengthened (see Fig. 1). In the final version, the national level was mentioned concerning good governance; water management; ocean management; soliciting support for the national implementation of the United Nations Convention to Combat Desertification in Africa, ensuring access to environmental information, justice and participation, and encouraging countries to work on indicators. National words were ubiquitous, calling for, among other things, national policies and national action programmes on various issues, support for capacity building for national institutions, and stressing that 'the role of national policies and development strategies cannot be overemphasized' in the means of implementation (United Nations 2002: 81).

Despite its dominance, there was considerable contention around the national level, particularly for two clusters of issues. The first concerned the extent to which the international community should direct the content of national policies and strategies. These issues were often cast as intimately linked to national sovereignty. One example is 'good governance'. The USA generally emphasized national responsibility at the expense of international commitments. G77 + China was against the discussion of good governance at the national level without addressing it at the international level at the same time. A second example concerns information: its collection, processing and access. The case of

indicators is illustrative. Indicators for sustainable development, encouraged as a decision-making tool in Agenda 21, were only agreed on for development and use at the national level. There were several attempts to connect indicators with higher levels of governance by, for example, Japan, Canada and Switzerland, but they failed (Commission on Sustainable Development 2002b). A third example is proposals that recommended specific national policies in certain issue areas, particularly forestry and finance. Proposed but deleted were references to developing national forestry frameworks, adopting national policies for energy subsidies, creating tax incentives for the private sector in developed countries for financial and technical assistance to developing countries and phasing out environmentally harmful subsidies and subsidies on agricultural products.

The second cluster of contentious issues concerns which actors have responsibility at what level, particularly the responsibility for mobilizing financial (and technological) resources for implementation in developing countries and countries with economies in transition. This financial responsibility concerned both policies and strategies developed at national level, and even more the internationally agreed goals for sustainable development. The EU and the USA stressed national financial responsibility, and G77 + China the responsibility of the international community. G77 + China fought for applying the principle of common but differentiated responsibility and respective capabilities—one of the principles of the Rio Declaration—for 'national' issues. This was not accepted by either EU or other industrialized countries in the JUSCANZ coalition.[13]

The text on the national level in chapter XI changed considerably during the negotiations. It was a long struggle to reach agreement on the need for national strategies for sustainable development and particularly for setting a target year (2005) for them, with the EU supporting it and G77 + China rejecting it (United Nations 2002: 162b).

4.5 The local level—marginal and controversial

The local level's position was very weak, both in the first and last versions of the negotiation text, but it had the largest relative increase among individual levels. The word 'local' appeared in the Chair's paper when referring to, for example, indigenous and local communities, considering national and local conditions, and capacity building for local governance. In the final JPOI, 'local' is used in the same way as in the first text version, with the exception of the reference to 'local governance', which disappeared. 'Local authorities' were referred to as having a role in upgrading slums, disaster management planning, monitoring and managing land and water resources for agriculture, and Local Agenda 21 groups were given the task of developing renewable energy technology and finding simple local solutions. In every case where the 'local level' is mentioned in the JPOI, it is not the main target of the sentence, but rather added at the end, preceded by the 'national level', or 'all levels'.

In chapter XI, the local level is mentioned in the last three paragraphs of the national section where the text calls for promotion of coordination structures and institutional arrangements 'at the national level, including at the local level' and for enhancing 'the role and capacity of local authorities' and for strengthening the 'continuing support for local Agenda 21 programmes' (United Nations 2002: 165–167). Local Agenda 21 was mentioned only twice in the JPOI.[14]

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[13] This loose negotiation coalition consists of Japan, USA, Canada, Australia and New Zealand.

[14] In Agenda 21, there was a whole chapter devoted to the role of local authorities for sustainable development (UNCED 1993).

Table 2 Governance levels related to the protection of natural resources in the JPOI

Issue/level	All	Global	Regional	Subregional	National	Local	Total
Oceans	5	20	8	3	9	–	45
Biodiversity	1	10	4	–	4	2	21
Fresh water	3	3	1	–	5	–	12
Forests	1	6	1	–	3	1	12
Atmosphere	–	6	2	–	2	–	10
Agriculture	1	2	–	–	3	2	8
Desertification	2	3	–	–	1	1	7
Mountains	1	2	–	–	1	–	4
Minerals	–	1	–	–	1	1	3
Total	14	53	16	3	29	7	110
Percentage of total	13	48	15	2.7	26	6.4	–

The numbers represent the number of times each level is mentioned in the text sections in chapter IV of the JPOI. Only the section on sustainable tourism has been excluded. The issues are listed in descending order of frequency. The global level includes the international level. The local level also includes references to issues such as those that are community based

While the local level had little prominence in the text, consensus on its role for some issues was easily reached. The text on tourism is unusually rich with reference to the local level, and the section on biodiversity stresses that the trend of biodiversity loss can only be reversed 'if the local people benefit' from conservation measures (United Nations 2002: 44). Furthermore, the text calls for the promotion of the effective participation of indigenous and local communities in decision and policy making with respect to their traditional knowledge and strengthening the participation of stakeholders, including local communities, in the life cycle of mining. For other issues, the local level was contentious, which is clearly illustrated by its absence in the text. Countries such as Canada, the EU (a country group), Japan and Turkey often proposed a role for the local level in several cases, but few proposals survived to the final version. Nonetheless, G77 + China also invoked the local level, particularly in cases of international support for capacity building or local programmes.

4.6 Levels for natural resource protection and management

A quantitative summary of the result from the analysis of the section addressing natural resources (chapter IV of the JPOI) is shown in Table 2. The total number of references to specific levels for each issue is partially a reflection of how much text is devoted to that issue and not only an indication for the preferred governance level. For all resources, except fresh water and agriculture, the global is the level that is most often invoked. The local level is not mentioned at all for fresh water, oceans, atmosphere and mountains. The regional level is not referred to in relation to agriculture, desertification, mountains and minerals, and the subregional level is only mentioned in connection with oceans. Oceans dominate the text in length, leading in terms of measures called for at all levels except the local level, followed by biodiversity, forests and atmosphere. Compared to the entire JPOI, the major differences in this chapter are that the global level is ranked first (ranked 4 in JPOI) and all levels is ranked fourth (first in JPOI). In more specific numbers, 48 per cent of all references to level/s is to the global level, while that was only 9.1 % for the whole

JPOI. At the same time, 13 % of references to level/s in the chapter refers to all levels (52 % in JPOI). All other percentages are close in range, with the exception of the national level that has a frequency of 26 % for natural resources when this is only 16 % in the entire JPOI.

The qualitative analysis of the types of measures that are recommended shows that only global targets are mentioned. Action in general is requested in roughly equal distribution at all levels, global and national levels. Action programmes (which include work programmes, plans, etc.) are referred to primarily at the global level, but also at the national level and twice at the regional level. Texts on legislation almost exclusively refer to global examples, with only two references to national laws. Coordination, cooperation and partnerships are encouraged at the global level in most cases, and occasionally also at the regional and national levels. Funds and resources are seldom mentioned in association with specific levels, and when they are, are spread across most levels. Capacity building is called for primarily at the national level, but also at the regional, subregional and local levels. Access to information is only mentioned in relation to the global level, and the sole reference to participation is for the local level.

4.7 Governance levels combined

As mentioned above, there are numerous places where the JPOI does not identify a specific level of governance but rather two, three, four or all levels of governance. The specific combinations frequently changed over the course of the negotiations. Half of the combinations include two levels. The national level is the only one that appears in combination with every other level. The most common combinations are 'national and international' and 'national, regional and international'. The subregional level is never included in a combination with the global level but is always paired with the regional level.

There are several examples of negotiation paragraphs that at some point during the negotiations had combinations of virtually every level from local to global included, each level often added by specific countries or country groups. In some cases, these were collapsed into the phrase 'all levels' that served as the standard phrase introducing most action-oriented paragraphs that could then still contain specific levels and level combinations. The phrase was not used in the first Chair's paper, in which action-oriented paragraphs were introduced solely by 'actions are required to …'. Indeed, mention of 'level' or 'levels' was here rather sparse compared to the final document. The EU, G77 and the USA added a few isolated proposals that in some way referred to the concept 'all levels' during PrepCom III. In response to proposals at PrepCom III, the Chair changed most of the introductions to action paragraphs to '[t]his would include international, regional, and national actions' (Commission on Sustainable Development 2002a), but by PrepCom IV, most of these had been changed to '[t]his will include actions at all levels'. However, the phrase 'at all levels' met with resistance, and even after it had been inserted throughout the text, it remained bracketed until the Summit itself in eight paragraphs regarding such issues as the work programme on production and consumption, disaster reduction and transfer of technologies (Commission on Sustainable Development 2002e).

5 The role of principles in allocating governance levels

There were explicit, and sometimes fierce, negotiations on the levels that should be mentioned for certain actions/responsibilities in this global negotiation of multilevel

governance. This means that allocation of governance is an issue countries take seriously and often have strong opinions about. The role of principles (as outlined in Table 1) in allocating governance was quite limited, with the exception of the principle of *national sovereignty*. Some countries did not want to yield power to the local level, possibly fearing this would indirectly reduce their own power at the national level through interference by donors bypassing national governments. Pressure for a stronger role for the global level came from developing countries, largely connected with the demand that developed countries honour their responsibility according to the principle of common but differentiated responsibilities and respective capabilities and ensure such aspects as resource flows, capacity building and technology transfer. Developed countries stressed the responsibility of the national level, such as in ensuring good governance. Other levels, such as the regional and sub-regional, rarely caused any contention, perhaps reflecting that they pose much less threat to sovereignty. Most regional institutions that are relevant for sustainable development are relatively weak, with the exception of the EU. Nonetheless, it is possible to discern linkages to several, but not all, of the other normative principles discussed in Table 1.

Substantive subsidiarity linked to finding the legitimate level of governance can be linked to arguments of sovereignty and sensitivities of having too many top-down policies from the global level. Examples of this include the considerable reservations towards indicators developed at levels other than the national (where it is also sensitive), the resistance from many countries to mandating good governance and strategies for sustainable development at the national level, and the many cases where countries or country groups expressed strong concern for overly detailed recommendations of national policies. Nonetheless, this latter type of concern was generally confined to issues in which their national interest did not coincide with the content, such as in energy or forest policy. For issues about which they felt strongly, countries pushed for more detailed descriptions of national policies or even legal frameworks.

Efforts to decentralize governance to levels closer to people would be another sign of aligning with this principle. The acclamation on the role of the regional level could be seen as a decentralization from the global level. However, there is not much global governance to decentralize from, and Regional Commissions are rather 'harmless' as power centres; thus, the threat to sovereignty is minimal. At the same time, there is much reluctance to elevating the local level of governance to a prominent role, except in very limited issue areas. The role of the local community was emphasized for the issue of biodiversity, although primarily as a necessity for creating effective policies. However, there were references in the JPOI to increasing, for example, public participation at the national level, multi-stakeholder engagement at the regional level, and even some degree of participation at the local level for some issues.

Procedural subsidiarity can be inferred from countries' efforts to assign responsibility to those levels where they believe the root causes (rather than the symptoms) for a problem lie (see below under the discussion on culpability). On the other hand, the lack of capacity was a prominent theme in the WSSD negotiations. The need for capacity building was stressed primarily at the sub-regional, national and local levels, and the procedural principle can imply the responsibility of higher levels of governance to empower lower levels that lack the necessary capacity for certain tasks that are within their potential. However, when requests are made for the global level to take responsibility for capacity building, this implies more resources from industrialized countries channelled through multilateral institutions.

The *principle of fit*, the idea that the most appropriate or effective governance level for an environmental resource partly follows from its spatial size is reflected in, for example,

the predominance of marine issues for the regional level, the much more frequent references to the global level in the section on natural resources compared to the entire JPOI, and in the discussion on the environmental problems through which the Global Environmental Facility (GEF) should channel funds to developing countries. The GEF was set up to address the truly 'global' environmental issues (climate, ozone, marine issues, etc.), but G77 + China tried to argue that it should also provide funds for what are considered to be national issues, thus not agreeing with the fit principle. Their view was that the GEF needed to address what the North refers to as national issues because they defined the drivers, the culpability, for those national problems as being global and linked to a world order that is inherently unequal. Another example of the link to the fit principle was the rather diverging views on what constitutes global public goods, global commons and global issues in general. Assigning a spatial 'size' to an issue is not a matter of objective assessment, but political negotiation in which unequal distribution of power plays a crucial role.

The *principles of culpability and capacity* as reasons for allocating governance to certain levels can be linked to the negotiations on how to refer to the Rio Principle on common but differentiated responsibilities and respective capabilities (CBDR). There were many disagreements on what part of this principle should be quoted, how often it should be referred to, etc. The CBDR principle is not about allocating governance between levels per se, it is more about assigning culpability and/or responsibility (depending on who you ask) to specific groups of countries, and identifying which countries have the capacity to act. Implicitly, however, this becomes a matter of allocating governance between the national and global levels. Developing countries stress the first part of the CBDR principle, arguing that developed (industrialized) countries have the main responsibility to address environmental degradation because they are largely culpable, having for a considerable time pursued industrialization unperturbed, with all associated impacts on natural resources and sinks of pollution. For developing countries, this requires a stronger role for the global level that should channel resource flows, etc. The industrialized countries, on the other hand, while accepting the CBDR principle and accepting that they have greater responsibility, refuse to link this to their culpability.[15] Developing countries also argue for changes of international institutions, such as those in the trade and intellectual property regime, as they see these as part of the root causes of such issues as unequal (sustainable) development. Industrialized countries stress the capacity part of the CBDR principle, both in terms of this being the reason for them to take more responsibility for action and in their arguments for developing countries, cast as the national level in the negotiation process, to be the only ones who have the capacity to create the enabling environment, for example good governance, for sustainable development. On the other hand, for large-scale issues, such as oceans and the atmosphere, the local level is completely absent in the text, omitting the aspect of individual choices and lifestyles as important drivers, for example climate change and overfishing of the oceans.

6 Concluding remarks

The objective in this paper was to look at the midpoint of the global negotiation process for sustainable development—the 2002 WSSD—and assess the role that normative principles

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[15] See Rajamani (2006) for an overview of how this principle has been used in various international negotiations.

may have played in the allocation of governance for specific tasks or responsibilities to individual or sets of levels in the negotiations of the outcome. The methodology used was primarily a combination of qualitative and quantitative analysis of the different drafts of the outcome document seeking to trace explicit or implicit linkages to normative principles for allocating governance. The analysis was carried out with a focus on two specific entry points: issues for which it was contentious and issues for which it was easy to reach consensus regarding their allocation to specific levels or combinations of levels.

In summary, there are signs of a role for normative principles relating both to effectiveness and legitimacy in the global negotiations of sustainable development. National sovereignty is, however, rather overarching but both substantive and procedural subsidiarity can be detected as well as fit, culpability and capacity. The principle of concern seems relatively invisible in the allocation of levels, yet is ostensibly due to the international community's collective concern for the plight of the planet and its peoples that the negotiation took place in the first place.

In his model of cosmopolitan democracy, Held (1995) envisions the creation of issue boundary forums or courts to consider cases where the appropriate level of decision-making is unclear. The WSSD and the continued deliberation process on sustainable development could be seen as the precursors to such forums. They constitute processes of identifying unity in goals and forums for deliberating the role of each governance level. However, in the present format, there are more negotiations than deliberations and thus not a focus on mutual learning, and although principles for allocating governance can be inferred through various issues, they do not seem to be subjected to explicit discussions. A more conscious deliberation on which guiding principles for the allocation of governance across levels should be applied and how in global (and thus multilevel) governance could provide some alternatives to the dominating principle of national sovereignty as Carozza (2003) maintains that the principle of subsidiarity has done to some degree in the EU. Føllesdal (1998) argues that by requiring impact statements and arguments of comparative efficiency in the EU, the principle of subsidiarity even facilitates 'the socialization of individuals into the requisite sense of justice and concern for the common good'. However, if this was to take place in the global deliberations on sustainable development, it would not be easy to reach agreement on such principles.

The analysis of the WSSD negotiations showed that principles relying on legitimacy and effectiveness became intermingled not only because of diverse views on which of them are more important but also because of different views on reality. In relation to effectiveness-based principles, diverse views of what the most effective course of action is (linked to the procedural subsidiarity and capacity principle), for example, means that even if principles related to effectiveness had been agreed upon, consensus on their application would still have been contentious. Even more challenging, however, would have been to agree on legitimacy-based principles and their application. This would have to overcome diametrically different interpretations of what is good or legitimate governance (linked to the substantive subsidiarity principle), underlying cause-effect linkages over time (linked to the fit and culpability principle) as well as building a sense of common solidarity and concern that could have made countries raise above the sensitivities of national sovereignty.

The spirit underlying the Rio declaration from 1992 could be linked to the concern principle. The application of the declaration and the other outcomes of that and subsequent conferences, however, seem to have lost some of that spirit. The UNCSD sought to re-instil that spirit of concern for the global common good. The outcome document moved from the frequent passive sentence construction in JPOI ('would require action at … levels') to an

active voice, as in the example 'We recognize that effective governance at the local, subnational, national, regional and global levels representing the voices and interests of all is critical for advancing sustainable development' (United Nations General Assembly 2012: 76). However, the key test whether it succeeded in re-instilling that spirit of concern is the degree of implementation that follows in the coming years at each level of governance.

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