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**Consultative Meeting of Government Officials and Experts on the  
Programme for the Development and Periodic Review of  
Environmental Law (Montevideo Programme)**  
Nairobi, 26–30 November 2007

**Report of the first session of the Meeting of Experts on a Programme  
for the Development and Periodic Review of Environmental Law**

**Note by the secretariat**

The annex to the present note contains the report of the first session of the Meeting of Experts on a Programme for the Development and Periodic Review of Environmental Law, held in Geneva from 3 to 5 September 2007.

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**Meeting of Experts on a Programme for the  
Development and Periodic Review of Environmental Law  
First session  
Geneva, 3–5 September 2007**

**Report of the first session of the Meeting of Experts on a Programme  
for the Development and Periodic Review of Environmental Law**

1. The United Nations Environment Programme (UNEP) Division of Environmental Law and Conventions convened the first session of the Meeting of Experts on a Programme for the Development and Periodic Review of Environmental Law at International Environment House in Geneva from 3 to 5 September 2007. The main purposes of the session were to review the implementation of the Programme for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-first Century (Montevideo Programme III) and to consider possible elements for a future Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme IV).
2. The experts invited by UNEP to attend the session served in their personal capacity and provided expert views and opinions on the issues addressed by the Meeting. The list of participants is set out in annex II to the present report.
3. The representative of the secretariat welcomed participants and declared the session open at 10 a.m. on 3 September 2007. The deliberations were facilitated by representatives of the secretariat, assisted by some experts participating at the session.
4. Following the opening, the representative of the secretariat reported the status of the implementation of the Montevideo Programme III, highlighting the progress achieved since its adoption in 2001. The experts expressed their appreciation for the progress to date.
5. The experts subsequently considered emerging and important issues that posed a challenge to environmental law. In addressing those issues, the experts had before them a document entitled “Emerging and important issues and a future Programme for the Development and Periodic Review of Environmental Law: Discussion paper” (UNEP/Env.Law/MTV4/EX/1/2). The experts debated the role of law and relevant legal responses in addressing such challenges and considered key issues in the field of environmental law from a long-term perspective, including the role of the UNEP environmental law programme.
6. On the basis of those discussions, the experts examined the contents of the Montevideo Programme III, section by section, in order to identify, from a long-term perspective extending to the year 2020, the existing areas of the Montevideo Programme III where updates were necessary, as well as new areas which should be added in order to address emerging and important challenges to environmental law. The draft outline of a future Montevideo Programme IV, as prepared by the experts, is set out in annex I to the present report.
7. Regarding next steps, it was noted that the preparation of the UNEP medium-term strategy for 2010–2013 had already started and that the preparation of the 2010–2011 programme of work of UNEP would start during the first half of 2008. The preparation of the Montevideo Programme IV therefore needed to commence in the current year in order to ensure that programme elements were fully integrated into and became operational under the 2010–2011 UNEP programme of work and the medium-term strategy for 2010–2013. Consultations among Governments and relevant stakeholders on the matter, which had been tentatively scheduled for the last week of November 2007, would therefore be necessary. Intergovernmental negotiations to finalize the agreed draft text of the Montevideo Programme IV for possible adoption at the twenty-fifth session of the Governing Council of UNEP might be held in 2008.
8. After the customary exchange of courtesies, the session was closed at 5 p.m. on 5 September 2007.

## Annex I

### **Draft outline of a future Montevideo Programme IV, as prepared by the experts:**

#### **Programme for the development and periodic review of environmental law**

The following programme areas, together with the respective objectives, strategies and actions, are proposed as a non-exhaustive list of elements for the Programme. UNEP, in accordance with its catalytic role, will take action in these areas in coordination with States, conferences of the parties and secretariats of multilateral environmental agreements, other international organizations, non-State actors and persons. For UNEP, the implementation of these activities should be consistent with UNEP's biennial programmes of work.

#### **I. Effectiveness of environmental law**

##### **A. Implementation, compliance and enforcement**

**Objective:** To achieve effective implementation of, compliance with, and enforcement of environmental law.

**Strategy:** Promote the effective implementation of environmental law through, inter alia, the widest possible participation in multilateral environmental agreements and the development of relevant strategies, mechanisms and national laws.

**Action:**

- (a) Conduct studies on:
  - (i) The effectiveness of, and compliance with, international environmental law, identifying the underlying causes of non-compliance; and
  - (ii) The environmental effectiveness of domestic environmental law, with the consent and cooperation of the relevant State or States;
- (b) Conduct studies of, compile and disseminate success stories and best practices;
- (c) Promote peer review mechanisms at subregional, regional and global levels;
- (d) Identify effective means to address major constraints faced especially by developing countries, in particular the least developed among them, and countries with economies in transition in implementing environmental law;
- (e) Cooperate with States, particularly by providing assistance to developing countries, in particular the least developed among them, and countries with economies in transition in:
  - (i) Establishing and strengthening domestic law to improve compliance with international environmental obligations and enforcement of such obligations through domestic law;
  - (ii) Developing national environmental action plans or strategies and, where appropriate, regional action plans or strategies, to assist in the implementation of international environmental obligations;
  - (iii) Cooperation and information exchange on compliance and enforcement;
  - (iv) Developing mechanisms for the avoidance and settlement of disputes relating to the environment, including enforcement of judgements;

- (f) Develop, where appropriate, as advice to competent national and local authorities, model laws or equivalent guidance materials for the implementation of international environmental instruments;
- (g) Continue comparative analyses of compliance mechanisms, including reporting and verification mechanisms, under different multilateral environmental agreements and, where appropriate, under agreements in other fields of international law;
- (h) Promote facilitative means of implementation of, and compliance with, international environmental law and, in this regard, study the efficacy of financial mechanisms, technology transfer, voluntary compliance and economic incentives under existing international environmental law instruments, including cost and benefit analysis;
- (i) Promote the use, where appropriate, of disincentives, including effective civil liability mechanisms, to encourage compliance with environmental law;
- (j) Evaluate and, as appropriate, promote the wider use of criminal and administrative law in the enforcement of domestic environmental laws and standards;
- (k) Explore options for advancing the effective involvement of non-State actors in promoting implementation of and compliance with international environmental law and its enforcement at the domestic and international level;
- (l) Promote further regional cooperation to enhance the implementation of and compliance with international environmental law;
- (m) Encourage, during the development of new international environmental legal instruments, consideration of the implementation and enforcement aspects of those instruments.

## **B. Capacity-building**

**Objective:** To strengthen the regulatory and institutional capacity of developing countries, in particular the least developed and small island developing States, and countries with economies in transition, to develop and implement environmental law.

**Strategy:** Provide appropriate technical assistance, education and training to those concerned, based on assessment of their needs.

**Action:**

- (a) Assist the development and strengthening of domestic environmental legislation, regulations, procedures and institutions;
- (b) Arrange seminars, workshops and exchange programmes for government officials, the judiciary, parliamentarians, the legal profession, civil society organizations and others concerned, on environmental law and policy, including on the implementation of international environmental instruments;
- (c) Provide appropriate training and support to enhance the participation of representatives from developing countries, particularly the least developed among them and small island developing States, and countries with economies in transition, in international meetings and negotiations related to environmental law;
- (d) Produce and disseminate environmental law publications to serve as capacity-building tools;
- (e) Promote the teaching of domestic, international and comparative environmental law in universities and law schools and, to this end, develop teaching materials, including video and other electronic media;
- (f) Collaborate with Governments and relevant international bodies in facilitating educational programmes in environmental law at the national and regional levels, in particular within the framework of the United Nations Decade of Education for Sustainable Development;
- (g) Strengthen coordination among relevant international organizations and institutions, including those that provide financing, on educational projects and programmes related to environmental law, its implementation and enforcement and the underlying causes of environmental damage;

- (h) Support national authorities in identifying, collecting, organizing and disseminating scientific information and data relating to the environment;
- (i) Promote the compilation and dissemination of environmental jurisprudence.

### C. Prevention and mitigation of environmental damage

**Objective:** To strengthen measures to prevent environmental damage, and to mitigate such damage when it occurs.

**Strategy:** Promote the development and application of policies and measures to prevent environmental damage and mitigate such damage by means such as restoration or redress, including compensation, where appropriate.

**Action:**

- (a) Promote, where appropriate, efforts by States to develop and adopt minimum international standards establishing high levels of protection and best practice standards for the prevention and mitigation of environmental damage;
- (b) Conduct studies, with the consent and cooperation of the States concerned, on the effectiveness of existing regimes of civil liability in implementing the polluter pays principle as a means to prevent environmentally harmful activities and mitigating environmental damage and provide expertise to States to enhance the effectiveness of such regimes;
- (c) Conduct studies, with the consent and cooperation of the States concerned, on the adequacy and effectiveness of ways and means of providing compensation, remediation, replacement and restoration for environmental damage, including methods of valuation, and encourage efforts by States to develop and adopt standard environmental economic valuation tools and techniques for such valuation;
- (d) Support the development by States of processes and procedures for victims and potential victims of environmentally harmful activities, regardless of their nationality:
  - (i) To ensure appropriate access to justice;
  - (ii) To provide access to legal and financial aid to poor litigants on environmental matters;
  - (iii) To provide appropriate redress, including the possibility of compensation inter alia, through insurance and compensation funds;
- (e) Support the development of national liability regimes for environmental damage;
- (f) Promote collaboration among Governments, international organizations and civil society in strengthening regimes for prevention and mitigation of environmental damage;
- (g) Assist developing countries, in particular the least developed among them, and countries with economies in transition in the development and application of legislative, administrative and institutional mechanisms for implementing international instruments and domestic policies relating to prevention and mitigation of environmental damage.

### D. Avoidance and settlement of international disputes relating to the environment

**Objective:** To improve the effectiveness of measures and methods for avoiding and settling international environmental disputes.

**Strategy:** Develop and promote new and existing means for avoiding environmental disputes and, where such avoidance is not possible, for their peaceful settlement.

**Action:**

- (a) With respect to the avoidance of environmental disputes, encourage States:
  - (i) To exchange environmental data and information regularly;
  - (ii) To assess transboundary environmental impacts of planned activities;

- (iii) To undertake early notification and consultation concerning planned activities that may have significant adverse impacts in other States or in areas beyond the limits of national jurisdiction;
  - (iv) To undertake monitoring, fact-finding, reporting and other means and procedures for verifying compliance and addressing non-compliance;
  - (v) To consider, as appropriate, innovative approaches to dispute avoidance, such as the use of third-party neutrals to facilitate open and complete information exchange, particularly among parties with differing levels of technical expertise;
- (b) With respect to the settlement of environmental disputes:
- (i) Study the actual and potential facilitative role of international bodies and agencies in the settlement of environmental disputes, including, where appropriate, through environmental ombudsmen;
  - (ii) Study experience regarding dispute settlement provisions of international environmental agreements in order to assess the effectiveness of those provisions;
  - (iii) Identify the most effective mechanisms for settling environmental disputes;
  - (iv) Facilitate the use of expert opinions, as appropriate, for settling environmental disputes;
  - (v) Promote innovative approaches and mechanisms for settling environmental disputes;
- (c) Study the experience gained in the operation of dispute settlement mechanisms in other fields of international law;
- (d) Examine the relationship between dispute settlement systems in international environmental agreements and those in other international regimes, including regimes relating to trade and investment;
- (e) Provide training in rules and procedures concerning environmental dispute avoidance and settlement for government officials and the legal profession, including the judiciary.

## **E. Strengthening and development of international environmental law**

**Objective:** To strengthen and further develop international environmental law, building on the existing foundations.

**Strategy:** Encourage international action to address gaps and weaknesses in existing international environmental law and to respond to new environmental challenges.

**Action:**

- (a) Undertake assessments of existing and emerging challenges to the environment in order to identify gaps and weaknesses, including interlinkages and cross-cutting issues, in international environmental law and specify the role it should play in responding to those challenges;
- (b) Develop criteria for determining the need for and feasibility of new international environmental instruments, taking into account existing instruments and practice;
- (c) Review the application of the principles contained in the 1972 Stockholm Declaration of the United Nations Conference on the Human Environment<sup>1</sup> and the 1992 Rio Declaration on Environment and Development,<sup>2</sup> identify the extent to which they are applied and disseminate the resulting information to States, taking into account Agenda 21,<sup>3</sup> the Johannesburg Declaration on

<sup>1</sup> *Report of the United Nations Conference on the Human Environment*, Stockholm, 5-16 June 1972 (United Nations publication, Sales No. E.73.II.A.14).

<sup>2</sup> *Report of the United Nations Conference on Environment and Development*, Rio de Janeiro, 3-14 June 1992 (United Nations publication, Sales No. E.93.I.8 and corrigenda), vol. I: Resolutions adopted by the Conference, resolution 1, annex I.

<sup>3</sup> *Ibid.*, resolution 1, annex II.

Sustainable Development<sup>4</sup> and the Plan of Implementation of the World Summit on Sustainable Development;<sup>5</sup>

- (d) Examine other fields of international law for the purpose of identifying emerging concepts, principles and practices relevant to the development and implementation of environmental law;
- (e) Review the relationship between environmental law and other fields;
- (f) Assist Governments, particularly those of developing countries, in particular the least developed among them, and countries with economies in transition, to develop bilateral, regional and global legal instruments in the field of the environment, making full use of the expertise and experience of all concerned;
- (g) Strengthen collaboration within the United Nations system as well as with other intergovernmental bodies in their work on the development of instruments relevant to the environment and, in particular, encourage, where appropriate, the integration of sustainable development in those instruments;
- (h) Continue supporting efforts by academics and researchers to further the development of international environmental law, including its possible codification.

## F. Harmonization and coordination

**Objective:** To promote, where appropriate, harmonized approaches to the development and implementation of environmental law and to encourage coordination of relevant institutions.

**Strategy:** Promote national, subregional, regional and global actions to develop and apply the appropriate harmonized approaches to environmental law and to encourage coherence and coordination of international environmental law and institutions.

**Action:**

- (a) Assist States:
  - (i) To improve progressively their environmental standards at the global, regional and subregional levels;
  - (ii) To promote coherence between environmental law and other laws, both at domestic and international levels, to ensure that they are mutually supportive and complementary and the environmental protection is an integral part of sustainable development;
  - (iii) To study the ways in which developing countries have integrated environmental policy into their governmental processes and advise governments on this subject;
  - (iv) To promote an ecosystem approach including through capacity building activities;
- (b) Conduct studies on the legal aspects of, obstacles to and opportunities for consolidating and rationalizing the implementation of multilateral environmental agreements, so as to avoid duplication of their work and functions;
- (c) Improve ways of harmonizing and otherwise rationalizing the reporting obligations in multilateral environmental agreements.

## G. Public participation and access to information

**Objective:** To enhance the quality of decision-making on environmental matters through increased transparency, access to information and public participation.

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<sup>4</sup> *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 1, annex

<sup>5</sup> *Ibid.*, chap. I, resolution 2, annex.

**Strategy:** Promote and further develop legal and practical means to increase transparency, strengthen access to information and improve, promote and protect public participation in processes leading to decision-making relating to the environment.

**Action:**

- (a) Collect, study and disseminate information on the law and practice relating to access to information, public participation in processes leading to decision-making and access to judicial and administrative proceedings relating to environmental matters;
- (b) Assist developing countries, in particular the least developed among them, and countries with economies in transition, to develop legal and practical means to collect and disseminate information concerning the environment;
- (c) Explore legal and practical means of promoting and protecting appropriate public participation in the implementation of, compliance with and enforcement of environmental law, taking into account intra- and inter- generational equity;
- (d) Support procedures and practices aimed at enhancing public participation and access to information in international institutions and in negotiations and other activities related to sustainable development;
- (e) Organize training on laws and procedures relating to access to environmental information and public participation in processes leading to environmental decision-making;
- (f) Investigate the need for and feasibility of new international instruments on access to information, public participation in processes leading to decision-making and access to judicial and administrative proceedings relating to environmental matters.

## **H. Information technology in decision-making**

**Objective:** To advance further the use of existing and new information technologies in decision-making processes at national and international levels in order to improve the content and effectiveness of environmental law.

**Strategy:** Promote the appropriate use of new and existing technologies in the implementation and enforcement of environmental law and the dissemination of information relating to environmental law, taking into account the special needs and circumstances of countries with lesser access to information technology tools.

**Action:**

- (a) Take advantage of and promote the use of new and existing technologies to improve laws and decision-making processes, including in the following areas:
  - (i) Development of baseline information on the state of the environment or its components and natural resources;
  - (ii) Accessing fully and using geographic information systems, including space technology information such as satellite images, aerial photographs and interpretation software;
  - (iii) Assisting in the development of environmental laws;
  - (iv) Promoting dialogue and public participation in environmental matters especially in the context of environmental impact assessment;
  - (v) Avoiding or settling environmental disputes;
  - (vi) Strengthening enforcement and compliance;
  - (vii) Increasing efficiency in the cooperative activities of multilateral environmental agreements;
  - (viii) Improving education in environmental law;
- (b) Explore tools to improve existing international arrangements and build new ones for access to, processing and dissemination of information on environmental legislation from national and international sources;

- (c) Promote methods for using the Internet and information technology to enhance public awareness of environmental law and to make international instruments and other documents available, including in all United Nations languages;
- (d) Support efforts to ensure that environmental agencies, institutions and organizations, particularly in developing countries, have access to Internet-based legal databases;
- (e) Further develop the UNEP website and promote further development of the websites of multilateral environmental agreements;
- (f) Promote the use and further development of the joint UNEP/World Conservation Union (IUCN) environmental law database (ECOLEX).

## I. Other means to increase the effectiveness of environmental law

**Objective:** To improve the effectiveness of environmental law through the application of innovative approaches.

**Strategy:** Identify and promote innovative approaches, tools and mechanisms that will improve the effectiveness of environmental law.

**Action:**

- (a) Assess States' use of tools such as eco-labelling, certification, pollution fees, natural resource taxes and emissions trading and assist, as appropriate, in the use of such tools;
- (b) Promote the development and assess the effectiveness of voluntary codes of conduct and comparable initiatives that promote environmentally and socially responsible corporate and institutional behaviour, to complement domestic law and international agreements;
- (c) Encourage consideration of the use of spokesmen for environmental values and concerns, including for the interests of future generations;
- (d) Study the contribution that other fields of law can make to environmental protection and sustainable development;
- (e) Enhance, through studies, the relationship of indigenous and local communities embodying traditional lifestyles to the management and protection of the environment;
- (f) Promote ecosystem management in law and practice, including the valuation of services provided by ecosystems, such as environmental benefits;
- (g) Encourage the development of legal and policy frameworks to reduce the debt burdens of developing countries in ways that benefit the environment.

## J. Governance

**Objective:** To achieve the realization of optimal governance structures, processes and practices for environmental protection, at local, national, regional and global levels.

**Strategy:** Support optimal governance through collection, analysis and dissemination of information about environmental governance at local, national, regional and global levels.

**Action:**

- (a) Compile and analyse information on how Governments and intergovernmental organizations coordinate their environmental protection efforts, both vertically and horizontally;
- (b) Compile and analyse information on the levels at which various environmental problems are addressed;
- (c) Compile and analyse information on how Governments, intergovernmental organizations and civil society organizations combat corruption in the areas of environmental policymaking and law enforcement and with respect to cooperation between Governments in addressing those issues;
- (d) Compile and analyse information about the nature and extent of government incentives to the private sector to behave in environmentally sound ways;

(e) Disseminate information on the preceding topics to Governments, international organizations and civil society.

## **II. Conservation and sustainable use of natural resources**

### **A. Fresh and marine water**

**Objective:** To enhance the conservation, protection, integrated management and sustainable use of freshwater resources, both ground and surface water and coastal and marine resources and ecosystems.

**Strategy:** Encourage the development of national and regional policies, action plans and, where appropriate, legal instruments for the conservation, protection, regeneration, integrated management and maintenance of the quality and sustainable use of water resources.

**Action:**

(a) Encourage States to develop and apply law and policies for the sustainable use of water resources and their protection from pollution and other threats;

(b) Encourage actions by States, individually and collectively, to improve conservation, protection, integrated management and maintenance of the quality and sustainable use of all water resources;

(c) Continue its work on reviewing the environmental aspects of transboundary watercourses;

(d) Study the legal implications of the interface between freshwater and marine water;

(e) Promote respect for and effective implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities;

(f) Assist Governments and relevant international bodies in the implementation and further development of regional seas conventions, protocols and related action plans;

(g) Collaborate with relevant international bodies on legal issues relating to the enhancement of the environmentally sound management of non-living marine resources;

(h) Collaborate with relevant international organizations on legal issues arising from the creation of marine protected areas and on conservation and sustainable use of coastal and marine ecosystems;

(i) Explore legal and practical means, including regional seas conventions, of improving the protection of coral reefs, wetlands, mangroves and other coastal and marine ecosystems;

(j) Collaborate with relevant international bodies in further integrating environmental considerations into rules relating to navigational safety.

### **B. Aquatic living resources**

**Objective:** To promote the conservation and sustainable use of aquatic living resources.

**Strategy:** Promote effective implementation of international instruments and national laws and policies for the conservation and sustainable use of aquatic living resources.

**Action:**

(a) Support the efforts of relevant international organizations to promote the effective implementation of agreements aimed at conservation and sustainable use of aquatic living resources;

(b) Collaborate with relevant international bodies on legal issues relating to the enhancement of the environmentally sound management of aquatic living resources;

(c) Study legal issues relating to threats to conservation and sustainable use of aquatic living resources, such as illegal, unreported and unregulated fishing, bottom trawling, long-line and other indiscriminate forms of fishing, for example, the use of dynamite or cyanide;

(d) Study legal issues relating to new uses of aquatic living resources, including issues related to thermal vents and bio-prospecting.

## C. Soils

**Objective:** To improve the conservation, rehabilitation and sustainable use of soils.

**Strategy:** Promote the development and implementation of laws and policies that aim to enhance the conservation, sustainable use and, where appropriate, rehabilitation of soils.

**Action:**

- (a) Review national laws on land use and other related fields, including change of land use laws and tenure systems with the aim of achieving soil conservation and reclamation goals;
- (b) Promote the integration of soil conservation measures into relevant national laws and policies;
- (c) Explore ways to develop new legal instruments to address the conservation and sustainable use of soils.

## D. Forests

**Objective:** To enhance the conservation and sustainable use of all types of forests.

**Strategy:** Promote the development and implementation of measures aimed at the protection, conservation and sustainable use of all types of forests.

**Action:**

- (a) Promote the integration of environmental concerns into national and local forest policies and legislation and the integration of forest conservation goals into other laws related to the use of forests;
- (b) Promote, where appropriate, means in national and local law and practice that provide incentives for the conservation of forests and the removal of disincentives for such conservation;
- (c) Encourage the elaboration of national and local laws and enhanced international cooperation in the prevention, assessment, monitoring and mitigation of forest fires;
- (d) Assist in promoting coordination between international institutions in the development and implementation of internationally agreed actions on forests.

## E. Biological diversity

**Objective:** To enhance the conservation of biological diversity, the sustainable use of its components, biosafety and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources.

**Strategy:** Promote, in consultation and cooperation with relevant bodies such as the Conference of the Parties and the secretariat of the Convention on Biological Diversity, the development and implementation of national, regional and global policies and legal instruments, as appropriate, that provide for the conservation and sustainable use of biological diversity in all ecosystems, the fair and equitable sharing of benefits arising out of such use and biosafety.

**Action:**

- (a) Promote the development and application of national laws for the conservation and sustainable use of biological diversity in situ and ex situ, including through ecosystem management and land use policies, as well as for the fair and equitable sharing of the benefits arising out of the use of genetic resources and for biosafety;
- (b) Assist developing countries, in particular the least developed among them and small island developing States, and countries with economies in transition to develop and apply legislative, administrative and institutional measures for the implementation of international instruments concerning biological diversity;
- (c) Contribute to the analysis of the relationship between intellectual property rights, the knowledge, innovations and practices of local and indigenous communities and the conservation and use of biological diversity in the context of studying ways and means to prevent and resolve conflict or incoherence between obligations under environmental and trade-related international agreements;

(d) Examine possible international responses to challenges posed by harmful invasive species, taking into account the cross-cutting nature of those problems and work under way in other international forums;

(e) Support the implementation of relevant multilateral environmental agreements, in particular the Convention on Biological Diversity and its Cartagena Protocol on Biosafety;

(f) Cooperate with other relevant international organizations to address legal challenges concerning the impacts on environment and public health of unsustainable patterns of agricultural production and animal husbandry;

## **F. Production and consumption patterns**

**Objective:** To improve the sustainability of ecosystems through adequate patterns of production and consumption.

**Strategy:** Develop and apply law and practical methods of promoting sustainable patterns of production and consumption.

**Action:**

(a) Identify and promote best practices and innovative laws and policies aimed at achieving sustainable production and consumption;

(b) Study best practices and innovative laws and policies that define the role and duties of producers and consumers in achieving sustainable production and consumption;

(c) Compile and analyse information about environmental regulations and practices related to, for example, environmentally sound procurement (green procurement) and energy-efficient buildings;

(d) Develop guidelines and promote the adoption of environmentally sound procurement policies by Governments and international organizations.

## **III. Challenges to environmental law**

### **A. Climate change**

**Objective:** To explore and address legal approaches concerning mitigation of and adaptation to climate change.

**Strategy:** Promote, in collaboration with relevant bodies such as the Conference of Parties and the secretariat of the United Nations Framework Convention on Climate Change, the development and implementation of national, regional and global legal approaches to the mitigation of and adaptation to climate change.

**Action:**

(a) Compile and disseminate existing legal approaches to the mitigation of and adaptation to climate change;

(b) Undertake analysis and assessment of the effectiveness of existing legal approaches to the mitigation of and adaptation to climate change, including laws and institutions, at all levels, to prepare for and ultimately deal with the effects of climate change, including human and wildlife movements caused by climate change;

(c) Analyse on a continuing basis linkages between climate change and other relevant areas of law, including energy, biodiversity, desertification and ozone depleting and other chemicals, to ensure the complementarity of those areas;

(d) Assist Governments and local authorities, in particular those of developing countries, in elaborating legal approaches to the mitigation of and adaptation to climate change in cooperation with relevant bodies such as the Conference of Parties and the secretariat of the United Nations Framework Convention on Climate Change;

- (e) Support international efforts, as appropriate, addressing legal barriers and constraints to mitigation and adaptation technologies and explore ways and means to enhance transfer of such technologies;
- (f) Compile, disseminate and analyse jurisprudence relating to climate change at the national, regional and international levels;
- (g) Explore effective legal means of providing appropriate assistance to people affected by climate-related events, in particular vulnerable groups.

## B. Poverty

**Objective:** To alleviate the environmental conditions that contribute to poverty and ensure an equitable supply of environmental services to reduce poverty and, to that end, to ensure that environmental law and its enforcement contribute as much as possible to poverty reduction and that environmental law and policies are taken into account in poverty reduction strategies.

**Strategy:** Encourage the complementarity and mutual supportiveness of measures relating to environmental protection and poverty reduction and to support implementation of the Millennium Development Goals that relate to poverty and the environment.

**Action:**

- (a) Examine further the relationship between poverty and the environment, including the disproportionate impacts on the poor of pollution from urban growth, lack of water quality and quantity, and desertification, and conduct studies on legal aspects of the relationship between environmental protection and poverty reduction, including environmental protection measures that have been effective in reducing poverty, and disseminate the results of these studies to governments, intergovernmental organizations and civil society;
- (b) In cooperation with States and relevant organizations compile and analyse the legal measures taken to ensure that environmental conditions promote the health, nutrition, and general well-being of those living in poverty;
- (c) Compile and analyse, in cooperation with States and relevant organizations, the existing legal frameworks or lack thereof which might contribute to increasing or reducing the risks of the "exportation of pollution" to poor countries and poor areas within countries;
- (d) Examine how to implement and integrate environmental protection and poverty reduction through legal measures, including supporting joint initiatives on poverty and the environment aimed at identifying concrete policy recommendations and practical measures that address the environmental concerns of the poor in developing countries;
- (e) Evaluate the legal requirements for and possible value of more localized, community-based approaches to natural resource management and sustainable development, informed by an understanding that the various groups in a society often experience environmental problems in very different ways;
- (f) Further develop the UNEP programme in the field of poverty and environment to provide a forum for practitioners, policymakers and researchers working in that area to share their experiences and identify solutions;
- (g) Study possible innovative ways to address the legal implications of debt financing that hampers the achievement of poverty reduction and the prevention of global environmental damage, seeking instead measures that support overall economic growth and a narrowing of the income and welfare gap between the rich and the poor in a manner consistent with environmental protection;
- (h) Examine means of implementing key multilateral environmental agreements that can promote the goals of the agreements while also contributing to poverty alleviation and enhancing the role of women, indigenous and other vulnerable sectors of society;
- (i) Promote awareness the of environmental policymakers and environmental law enforcement officers of the Millennium Development Goals, in particular Millennium Development Goal 1 regarding poverty reduction;
- (j) Cooperate with Governments, relevant international institutions and civil society to achieve the objective outlined above.

### **C. Access to drinking water and sanitation**

**Objective:** To explore legal approaches to promote access to drinking water and sanitation.

**Strategy:** Examine legal approaches to access to drinking water and sanitation within the framework of integrated water resource management and related issues.

**Action:**

- (a) Compile, study and disseminate information on existing legal approaches relating to access to drinking water and sanitation;
- (b) Cooperate with relevant international bodies and institutions developing effective legal approaches relating to access to drinking water and sanitation;
- (c) Encourage the development of national, subregional and regional policies and legal instruments to promote access to drinking water and sanitation;
- (d) Encourage international cooperation to ensure access to drinking water, particularly in countries affected by the problem of drought or lack of water;
- (e) Assess the experiences of States with regard to freshwater supply, waste water treatment and sanitation.

### **D. Ecosystem protection**

**Objective:** To promote and improve the conservation and management of ecosystems in a holistic and integrated manner.

**Strategy:** Compile and assess current international instruments and national laws on ecosystem conservation and management, to promote the effective implementation of existing instruments and laws, and to assist in developing new national and international instruments where needed.

**Action:**

- (a) Study and promote, as appropriate, measures such as land use planning and the creation of protected areas for the conservation, integrated management and sustainable use of ecosystems;
- (b) Analyse existing transboundary ecosystem instruments, such as regional seas, transboundary water courses and mountain ecosystems agreements, with a view to exploring the utility of developing international instruments for the conservation, management and sustainable use of other ecosystems;
- (c) Collect and analyse legal measures directed at the rehabilitation of degraded ecosystems;
- (d) Cooperate with Governments, intergovernmental organizations and civil society to achieve the objective set out above.

### **E. Environmental emergencies and natural disasters**

**Objective:** To improve the ability of the international community to prevent and respond to environmental emergencies arising from man-made and natural disasters.

**Strategy:** Develop legal frameworks aimed at preventing, responding to and mitigating human-caused and natural disasters.

**Action:**

- (a) In close cooperation with Governments, international organizations and civil society, develop and promote laws and institutions to prevent human-caused disasters;
- (b) In close cooperation with Governments, public organizations and civil society, develop and promote laws and institutions to respond effectively to human-caused and natural disasters;
- (c) Promote the development of international cooperative mechanisms for disaster prevention and preparedness, including early warning systems for environmental emergencies;

(d) Study the need for, and feasibility of, developing legal frameworks for international cooperation, in particular at the regional level, to address the consequences of and responses to human-caused and natural disasters;

(e) Study, in cooperation with relevant organizations, the need for and feasibility of developing a special legal status and protection for those displaced due to environmental emergencies and disasters and other environmental legal issues arising from population displacement.

## **F. Pollution prevention and control**

**Objective:** To prevent, reduce and control environmental pollution, taking into account the challenges presented by urban development.

**Strategy:** Strengthen and expand existing instruments and develop new ones to prevent, reduce and control environmental pollution.

**Action:**

(a) Promote the further development of subregional and regional agreements to combat transboundary pollution, in particular transboundary air pollution including haze and brown clouds, and examine the feasibility of developing agreements at the global level;

(b) Assist developing countries and countries with economies in transition to strengthen their national legislation and institutions to prevent, reduce and control at source pollution, in particular transboundary air and water pollution;

(c) Develop and promote local laws and practices to address transboundary air and water pollution;

(d) Promote the effective implementation of international environmental regimes relating to chemicals and wastes;

(e) Support international efforts to address new challenges resulting from chemicals, including persistent organic and inorganic pollutants;

(f) Explore the feasibility of a framework convention in the field of chemicals;

(g) Support coherent implementation of environmental and other conventions concerning chemicals and wastes;

(h) Promote the development of instruments and arrangements that discourage or prevent the environmentally unsound relocation and transfer to other States of any environmentally harmful activities and substances;

(i) Assist developing countries and countries with economies in transition to develop national pollutant release and transfer registries to promote, inter alia, contingency plans, public right-to-know programmes and cleaner production process methods;

(j) Promote the development of national laws and policies that encourage integrated pollution prevention and control, waste minimization and the environmentally sound and safe management of chemicals and wastes, and assist developing countries, in particular the least developed among them, and countries with economies in transition, to achieve this objective;

(k) Promote laws and policies that support environmentally sound planning and environmental impact assessment in the national and transboundary context;

(l) Develop guidelines and other instruments to improve the management of wastes in the context of urbanization and related challenges;

(m) Intensify work, including undertaking appropriate legal studies, to address environmental problems of urban areas more effectively, coordinating closely with other relevant international organizations, including the United Nations Human Settlements Programme (UN-Habitat);

(n) Conduct studies on further development of strategic environmental assessment of policies, programmes and legislation, in particular in urban area.

## **G. New technologies**

**Objective:** To ensure environmentally sound development and application of new technologies.

**Strategy:** Conduct studies of the regulation of new technologies and support adoption, revision, when appropriate, and implementation of regulatory approaches to new technologies that adequately address their risks in a timely manner without unduly restricting their development, taking into account the precautionary principle.

**Action:**

(a) Collect information about the potential environmental impact of new technologies and conduct studies of environmental regulations of new technologies, including genetic modification and other biotechnology, nanotechnology and new aspects of power generation, taking into account the precautionary approach;

(b) Explore the need for national, subregional and regional legal frameworks to regulate new technologies;

(c) Cooperate with other relevant organizations.

## **IV. Relationships with other fields**

### **A. Human rights and the environment**

**Objective:** To examine and consider the utility of rights-based approaches to environmental issues.

**Strategy:** Gather and analyse information about the extent to which national laws adopt and use rights-based approaches to environmental problems and how international human rights bodies address environment-related issues.

**Actions:**

(a) Compile and analyse national constitutional provisions, laws and jurisprudence related to environmental rights and duties;

(b) Compile and analyse the provisions of global and regional human rights instruments related to the environment;

(c) Compile and analyse the jurisprudence of global and regional human rights bodies related to the environment;

(d) Disseminate the compilations and analyses to Governments, human rights bodies, and civil society;

(e) Collaborate with Governments and relevant international bodies in facilitating educational programmes on the linkages between human rights and the environment;

(f) Cooperate with international institutions whose mandates include issues relating to human rights and the environment.

### **B. Trade**

**Objective:** To secure environmental protection objectives in international trade, investment and financial laws and policies in order to achieve sustainable development and the appropriate balance between the objectives in these fields.

**Strategy:** Encourage further the complementarity and mutual supportiveness of measures relating to environmental protection and international trade, investment and finance.

**Action:**

(a) Identify and promote, through collaboration between Governments, relevant organizations and civil society, legal instruments that integrate in a complementary and mutually supportive manner:

(i) Environmental and trade laws and policies;

(ii) Environmental and investment laws and policies;

- (b) Identify and promote, through collaboration between Governments, relevant organizations and civil society:
  - (i) Modalities for financing measures designed to resolve environmental problems, taking into account the linkage between environmental degradation and poverty;
  - (ii) Economic and fiscal instruments for environmental protection and resource management;
- (c) Conduct studies to identify means of promoting optimal coherence between obligations under environmental and trade-related international agreements;
- (d) Promote and facilitate common international approaches to environmental problems as a means of anticipating and avoiding potential unilateral actions that could lead to environment and trade disputes;
- (e) Encourage the resolution of trade disputes within the appropriate forums in ways that ensure the full and effective consideration of relevant environmental concerns and information, as well as transparency and public participation;
- (f) Assist in developing the methodology for, and promote the implementation of, strategic environmental assessments of investment and trade liberalization policies, particularly through capacity-building in developing countries and countries with economies in transition;
- (g) Collaborate with private and public financial institutions, including export credit agencies, in the further development of guidelines and standards on environmental impact assessment, public participation and environmental protection, for investments in developing countries.

### C. Security and the environment

**Objective:** To encourage the integration of the environmental dimension into traditional concepts of security.

**Strategy:** Encourage the consideration of environmental issues in policies, law and institutions related to national, regional and global security.

**Action:**

- (a) Study further the relationship between environmental protection and security issues;
- (b) Encourage studies on the concept of security and the environment;
- (c) Support the development of national, subregional and regional legal approaches to sustainable environmental management and security.

### D. Military activities and the environment

**Objective:** To reduce or mitigate the harmful effects of military activities on the environment and to encourage a positive role for the military sector in environmental protection.

**Strategy:** Collaborate with Governments and international organizations concerned in developing and promoting compliance with environmental protection norms relating to military activities so as to avoid and mitigate environmental damage.

**Action:**

- (a) Survey, with the cooperation of States, the application of environmental norms, standards and procedures to military activities;
- (b) Study the adequacy of and identify any gaps in existing legal regimes in protecting the environment from military activities, including the extent to which the rules on warfare are protective of the environment, the extent to which international environmental obligations apply during times of armed conflict and the extent to which the military sector complies with national and international environmental obligations during peacetime;
- (c) Develop and clarify norms regarding the environmental impacts of military activities, in particular by:

- (i) Reviewing, with the cooperation of States, the effectiveness of existing regimes for environmental protection with respect to military activities;
- (ii) Reviewing, with the cooperation of States, existing codes of conduct, rules of engagement and manuals for armed forces to determine how they address environmental protection and developing on that basis a model code of conduct or rules of engagement designed to reduce the likelihood of environmental damage through military activities;
- (iii) Exploring the feasibility of a general agreement for the protection of certain designated areas of natural and cultural heritage in times of armed conflict;
- (d) Promote laws and policies that encourage consideration in the design of new weapons and military equipment of their environmental effects throughout their life cycle, i.e., in their production, transport, use and disposal;
- (e) Study the feasibility of developing legal mechanisms for mitigating damage caused by military activities, especially concerning:
  - (i) The removal of military hardware that harms the environment;
  - (ii) The restoration of the environment damaged by military activities;
- (f) Undertake actions to enhance legal and institutional capacity to prevent and reduce environmental damage from military activities by developing opportunities for training civil and military staff in military establishments in the application of the legal norms of environmental protection.

## Annex II

### List of participants

#### Experts

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