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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 meeting

I. Introduction

1. The consultative meeting of government officials and experts on the Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme) was convened by the United Nations Environment Programme (UNEP) at its headquarters in Nairobi from 26 to 30 November 2007.

II. Opening of the meeting and organization of work

2. The meeting was opened at 10 a.m. on 26 November 2007 with welcoming remarks by the representative of the UNEP secretariat.

3. Discussions at the meeting were facilitated by the representative of the UNEP secretariat. The meeting adopted the following agenda, as contained in document UNEP/Env.Law/MTV4/IG/1/1:

1. Opening of the meeting.
2. Organization of work.
3. Review of 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).
4. Review of the progress achieved and challenges faced in the development, strengthening and enforcement of environmental law at all levels.
5. Consideration of emerging and important issues posing new challenges in the field of environmental law.
6. Consideration of a way forward for the further implementation of the Montevideo Programme III and for the preparation of a fourth Montevideo Programme for the period up to the year 2020.
7. Closure of the meeting.

A. Attendance

4. The meeting was attended by experts representing the following Governments: Argentina, Bangladesh, Bulgaria, Burkina Faso, Burundi, Canada, Chad, China, Comoros, Congo, Côte d'Ivoire, Cuba, Democratic Republic of the Congo, Djibouti, Ethiopia, Finland, Gambia, Georgia, Germany, Ghana, Grenada, India, Indonesia, Iran (Islamic Republic of), Iraq, Kenya, Kuwait, Kyrgyzstan,

Madagascar, Malaysia, Maldives, Mauritius, Mexico, Mongolia, Mozambique, Nepal, Netherlands, Niger, Oman, Pakistan, Republic of Korea, Romania, Russian Federation, Samoa, Senegal, Somalia, Sri Lanka, Switzerland, Timor-Leste, Togo, Turkey, Uganda, United Republic of Tanzania, United States of America and Zimbabwe.

5. The following United Nations bodies and other intergovernmental organizations were represented at the meeting: African Union Inter-African Bureau for Animal Resources (AU-IBAR), Intergovernmental Authority on Development (IGAD), Secretariat of the Basel Convention, World Bank, World Conservation Union (IUCN).

6. The following non-governmental organizations were represented at the meeting: Environmental Advocacy and Education Network (EA), International Council of Environmental Law (ICEL); and Nile Basin Federation.

7. The participation of experts from developing countries was facilitated through financial support provided by the Government of Norway, which was noted with appreciation.

III. Summary of main points of discussions

8. The representative of the UNEP secretariat briefly reported on the status of 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).

A. General observations

9. In the ensuing discussion, experts expressed their general support for the work of UNEP in the field of environmental law, underlining the significantly important role of the Montevideo Programme III in providing strategic guidance to UNEP in that area. Attention was also drawn to the key significance of environmental law in environmental governance and sustainable development.

10. Experts felt that that the role of UNEP in the progressive development of international environmental law remained relevant and that the organization should continue its work in that field. Some experts stated that the UNEP environmental law programme should focus on the implementation of existing environmental law, with particular attention to the Bali Strategic Plan, rather than develop new international legal instruments.

11. Experts were of the opinion that the Montevideo Programme, as a ten-year strategic guidance instrument, should be sufficiently wide in its scope to be able to meet the requirements of Governments in tackling both existing and emerging issues, and noted also that the UNEP programme of work would eventually determine the precise scope of the tasks to be performed.

12. Some experts stressed that, in implementing the future Montevideo Programme, the UNEP environmental law programme should carefully prioritize its own work, striving to achieve greater focus and clarity and to avoid duplicating the activities of other organizations.

13. Some experts suggested that the structure of the Montevideo Programme IV should be modified to incorporate an introductory chapter setting out its general objectives, including the fundamental principle of sustainability; cross-sectoral issues, such as poverty reduction, changes in production and consumption patterns, public participation of minority groups; the need to mainstream gender equity considerations, together with other relevant cross-sectoral issues; and climate change, trade and the relationship between environmental law and the economy.

14. It was noted that the Montevideo Programme IV would be developed in a manner keeping it in step with the cycle of the UNEP medium-term strategy for 2010–2013, and also with the 2010–2011 programme of work to be adopted by the Governing Council at its twenty-fifth session in 2009. The meeting learned that an intergovernmental meeting for the preparation of the Montevideo Programme IV had been scheduled for October or November 2008 under the UNEP programme of work, subject to the availability of the requisite extrabudgetary resources.

15. While noting the need for Governments further to examine the programme elements of the future Montevideo Programme IV as contained in the draft text prepared by UNEP with the assistance of a group of eminent experts in environmental law (UNEP/Env.Law/MTV4/IG/1/2) before determining their own policy positions, government officials and experts presented their views on the programme areas of the Montevideo Programme III together with their initial comments on the draft text of the future Montevideo Programme IV. Noting that, in the process of formal editing by the United Nations

Conference Services, some editorial changes had been made to the original draft text of the future Montevideo Programme IV, experts requested that the original text prepared by the expert group, showing changes made to the text of the Montevideo Programme III, should be annexed to the report of the present meeting for future reference. The main points raised by experts in their observations are summarized below.

B. Effectiveness of environmental law

1. Implementation, compliance and enforcement, and capacity-building

16. All experts emphasized the importance of implementation, compliance and enforcement of the existing instruments, as well as the need to provide support to developing countries to enhance their capacity to implement those instruments. The UNEP 2002 Guidelines on Compliance and Enforcement of Multilateral Environmental Agreements and their companion manual were noted as useful tools in efforts to promote compliance and enforcement.

17. Many developing countries reported that they were experiencing difficulties in the enforcement of the existing laws and regulations, including international environmental law. Attention was drawn to the lack of effective means of implementing multilateral environmental agreements. It was argued that the problem should be tackled in particular through capacity-building, and that UNEP should continue providing relevant assistance at all levels, from local and national to regional and global.

18. Activities conducted by UNEP under the Partnership for the Development of Environmental Laws and Institutions in Africa (PADELIA) and judges capacity-building programmes were cited as examples of helpful action to support capacity-building in environmental law.

19. A number of experts noted the importance of the provision of adequate financial resources to support the implementation of multilateral environmental agreements, noting for example the Multilateral Fund of the Montreal Protocol. The view was put forward that the Montevideo Programme might not be an appropriate instrument for facilitating the provision of funds for such purposes.

20. Many experts emphasized the importance of promoting technology transfer as a means of facilitating compliance with the relevant requirements of multilateral environmental agreements.

21. Concern was expressed about the lack of effectiveness in the existing laws, and it was stressed that consideration should be given to ways in which such laws could be rendered more effective.

22. It was proposed that the UNEP secretariat should prepare a compilation of the existing internationally agreed environmental objectives, goals and targets with a view to assisting Governments to implement, comply with and enforce the existing agreements. Non-compliance with the existing international obligations might be attributed partly to the lack of such an overview, which would provide a knowledge base for decision makers and ensuring that they remained mindful of such requirements.

23. Among suggestions for the future Montevideo Programme IV, attention was drawn to the following needs:

(a) To promote compliance with early notification and consultation requirements concerning planned activities that might have significant adverse impacts on other States or in areas beyond the limits of national jurisdiction;

(b) To conduct studies on cooperation among States with shared natural resources;

(c) To study the contribution of environmental law to other areas of law, such as civil law, criminal law and administrative law;

(d) To encourage cooperation on international and regional agreements and their follow-up as a means of promoting their implementation

24. The importance of cross-sectoral cooperation within national Governments was noted as a means of facilitating the implementation and enforcement of environmental law.

25. It was pointed out that countries should be urged, as far as possible, to prepare in principle all necessary legislation before ratifying international agreements, an approach which had been recently endorsed in the context of activities under the United Nations Economic Commission for Europe. That approach was also in line with the general principles of international law as identified in the Vienna Convention on the Law of Treaties.

26. The meeting was also informed that an “eco-citizenship” initiative was being implemented in one African country as a means of heightening the sense of environmental responsibility among citizens.

27. There was a suggestion that attention should be given to alternatives to legal measures and the assistance that they could provide in attaining environmental objectives.

2. Prevention and mitigation of environmental damage and the avoidance and settlement of international environmental disputes

28. It was emphasized that prevention and mitigation are equally important in dealing with the problem of environmental damage. The application of environmental impact assessment procedures, including strategic environmental assessments and strategic plans and cleaner production options, together with the application of the polluter-pays-principle, were identified as important elements of the prevention and mitigation of environmental damage.

29. The role of various tools for prevention and mitigation of environmental damage was underlined, including contingency plans and in particular access to justice (so-called “quick justice”) in those cases. It was stressed that transboundary environmental cooperation should particularly be taken into account in avoiding environmental damage; the issue of damage occurring beyond the area of national jurisdiction was proposed for further consideration. Emphasis was put on the need not only for global and regional, but also for bilateral cooperation in those areas, which should include, in particular, information exchange and consultation. Attention was drawn to the importance of restoration of the environment.

30. Experts stressed that success stories, from both national and international contexts, should be brought to the attention of the international community and that special attention should be given to alternative methods of dispute resolution, given the cost of traditional dispute resolution procedures.

31. Suggested action for the future Montevideo Programme IV included the following:

(a) To support the strict application, and where appropriate, the development by States of processes and procedures to ensure that activities within the jurisdiction or control of States did not cause damage to the environment of other States, or in areas beyond the limits of national jurisdiction;

(b) To promote collaboration among Governments with regard to the application and implementation of the precautionary principle.

3. Strengthening and development of international environmental law

32. While some experts were of the view that further work should be done in this field, others expressed reservations about the development of new legal instruments and further clarification was sought with a view to understanding what exactly constituted international environmental law.

33. In that context, attention was drawn to the need to develop environmental standards suitable for tackling relevant issues at all levels, including the local level. In addition, a proposal was put forward that a strategy should be developed for the inclusion of small island developing States, on the lines of the Programme of Action for the Sustainable Development of Small Island Developing State (Barbados Programme of Action) and the Strategy for the further implementation of the Barbados Programme of Action (Mauritius Strategy).

4. Harmonization and coordination

34. Some experts drew attention to the need to harmonize national laws and standards at regional and even bilateral levels.

5. Public participation and access to information

35. The main points of discussion under the item included the following:

(a) Consideration should be given to gender and minority group considerations under environmental law;

(b) The participation of civil society and the private sector and further education in legal and technical matters at all levels should be promoted;

(c) The duty of Governments to inform the public on all activities concerning the environment through, among other measures, regular state-of-the-environment reports should be highlighted;

(d) In the context of public participation, reference should be made to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, which is open for accession to all countries:

(e) Certain changes should be made to the draft text of the present section, including changing its title to include the issue of access to justice.

6. Information technology

36. The main points of discussion under the item included the following:

(a) Web-pages and information on the web should be more user-friendly and made available freely to developing countries, facilitating the downloading of heavy files;

(b) Information technology should be made more accessible in developing countries and internet links should be strengthened and expanded;

(c) Technical and financial assistance should urgently be provided to developing countries to facilitate their access to information.

7. Other means to increase the effectiveness of environmental law and to enhance governance

37. The main points of discussion under the item included the following:

(a) Concern was voiced over the lack of synergies between many agreements signed in the African region and the need for innovative approaches to increase the effectiveness of environmental law in the region was emphasized. Praise was expressed for the successful PADELIA programme mounted by UNEP and for the support which it provided in building capacity of relevant authorities for expediting the processing of environmental cases in the courts and in raising the awareness of judges in environmental matters. In addition, the need was stressed for further consideration to be given to the coexistence in some countries of different systems of law, such as civil law, Islamic law and common law;

(b) In the light of the success of the PADELIA programme, it was expected, within available resources, that support should be provided under that programme for the participation of other developing countries, in particular the least developed countries;

(c) The issues of pollution from land-based sources and environmental problems resulting from off-shore activities should be taken into consideration with a view to enhancing the effectiveness of environmental law;

(d) Governance should be understood as good governance: appropriate arrangements should be set in place to ensure the necessary actions by States to that end;

(e) There should be reference to environmental management systems .

C. Conservation and sustainable use of natural resources

1. Fresh and marine waters and aquatic living resources

38. The main points of discussion under the item included the following:

(a) Attention was drawn to the fact that there were other organizations and bodies dealing with the above matters and therefore care must be taken to avoid the overlapping of activities;

(b) It was proposed that the scope of aquatic living resources should be extended to cover lake ecosystems and also river basin management, to take into account the interaction between seas, lakes and rivers;

(c) It was proposed that account should also be taken of areas beyond national jurisdiction;

(d) The issue of illegal fishing was cited as an important cause of over-fishing;

(e) Attention was drawn to the problem of alien species introduced into the ecosystems, including sea and inland waters, from other regions and causing damage to local ecosystems;

(f) The need was stressed for reference to be made to small island developing States in all areas of the draft.

2. Soils

39. The main points of discussion under the item included the following:

(a) The need was stressed for a revision of land-use laws, mining laws and other related laws protecting soils in African countries. Close attention should be given to the reparation of soils and integrated plans for its use. Further consideration should be given to the close links which exist between soils and logging activities (including for charcoal production), as well as to the threat posed to soils by such problems as shifting sands and over-grazing. Attention was drawn to the need to ensure the restoration, protection and sustainable use of soils. Secure tenure rights were considered crucial to ensuring the sustainable use of soils;

(b) Preference was expressed for the term “sustainable use” rather than “conservation”. It was important to highlight the issues of “equitable use of and access to land”, and also “sustainable agriculture” and “soil erosion”. Erosion caused by rivers was cited as an important cause of soil erosion;

(c) It was vital to ensure close cooperation between neighbouring countries in the area of soil-use at bilateral, subregional and regional levels; attention was also drawn to the global approach to those matters, under which areas beyond national jurisdiction were also included, although some experts did not support the use of such global approaches in dealing with those matters.

3. Forests and biological diversity

40. The main points of discussion under the item included the following:

(a) Deforestation was cited as a major problem in developing countries; the need to uphold the rights of local communities in the use of forest resources was also stressed, however;

(b) Experts’ attention was drawn to the role of forests in combating climate change and to the question of possible compensation to African countries which refrained from logging;

(c) Attention was also drawn to the issues of “benefit-sharing from the use of biodiversity” and “appropriate access to biodiversity”;

(d) It was suggested that the draft should include references to other bodies and conventions dealing with biodiversity issues.

4. Production and consumption patterns

41. The main points of discussion under the item included the following:

(a) Stress was placed in this context on the issue of the transfer of clean and environmentally sound technologies, and also on efforts to limit the generation of wastes;

(b) Energy-related laws were cited as means of fostering cleaner production, in particular by limiting the use of fossil fuels, and of furthering progress towards clean energy use;

(c) Experts’ attention was drawn to the issue of trade-related intellectual property rights (TRIPS) and other such intellectual property rights in the context of transfer of technology and, in this context, stress was placed on the need to revise existing legal arrangements, with a view to facilitating technology transfer from developed to developing countries;

(d) The practice of “green procurement” was viewed by some experts as detrimental to exports from developing countries. Attention was also brought to the issues of eco-labelling and emissions trading;

(e) It was suggested that the feasibility of developing an agreement on sustainable production and consumption should be examined. A reservation was expressed on this point.

D. Challenges to environmental law

1. Climate change

42. Experts identified climate change as an issue of critical importance, underlining the need to employ legislative measures to tackle the problem. While some experts stressed that UNEP had an important role to play in that regard, others suggested that consideration should be given to the problem

in another, more appropriate forum. In that context, attention was drawn to other institutions and conventions dealing with the matter and stress was placed on the need to ensure close cooperation and to avoid duplication of effort.

43. In the context of climate change, attention was drawn to such phenomena as heat-waves, the declining availability of fresh water and the issue of liability, with a view to specifying essential legal remedies for any harm caused.

44. Proposals were put forward for the wording of certain paragraphs in the draft.

2. Poverty

45. Some experts noted that the eradication of poverty was key to the attainment of environmental goals and could also be tackled through legislative measures.

46. The main points of discussion under the item included the following:

(a) The problem of the linkages between environment and poverty problem constituted a vicious circle in many developing countries and it was important to explore alternative livelihoods for affected populations;

(b) The link between climate change and poverty was also emphasized;

(c) Attention was drawn to the other bodies, such as the United Nations Development Programme (UNDP), dealing with poverty and to the need for the further prioritization of UNEP activities;

(d) The links between poverty and corruption were highlighted;

(e) The need for the provision of financial assistance to developing countries in their efforts to mitigate poverty was stressed, including through such arrangements as debt-swaps to financing poverty and environment-related programmes;

(f) Attention was drawn to the link between poverty and population growth.

3. Access to drinking water and sanitation

47. The main points of discussion under the item included the following:

(a) There was a need to establish quality standards and management systems to ensure the necessary quality of drinking water. In some cases, however, owing to high salt levels and the lack of alternative sources of drinking water, such standards were not feasible. It was noted that emphasis should be placed on water protection and waste-water management, rather than on access to drinking water;

(b) Access to safe drinking water was identified, together with the need to improve water management, as key problems. Attention was also drawn to the linkages between solid waste management and the issue of water;

(c) The management of shared water resources should be further studied;

(d) Proper account should be taken of the full sovereignty of States over their natural resources, in particular regarding the management and use of safe drinking water, as well as the need for full compliance with international law;

(e) Implementation of the Millennium Development Goals was of particular relevance in the context of water and sanitation;

(f) It was proposed that the issues of groundwater use and the protection of groundwater against pollution, in particular by heavy metals, should be included in this chapter;

(g) Attention was drawn, in this context, to the crucial importance of boosting the capacity of municipalities and other local-level institutions;

(h) Further attention should be given to the issues of protection and management of water sources and catchments, including the protection of mountains as sources of water;

(i) Cooperation with other bodies and organizations dealing with water-related matters was essential to avoid the duplication of effort.

4. Ecosystem protection

48. The main points of discussion under the item included the following:

- (a) Good practices and examples of ecosystem protections, especially at the bilateral level, should be brought to the attention of the international community;
- (b) Attention should be given to such processes as the drawing of benefits from ecosystem changes and the levying of payments for ecosystem services as important instruments in ecosystems management;
- (c) Caution was expressed about the development of new international instrument in this field.

5. Environmental emergencies and natural disasters

49. The main points of discussion under the item included the following:

- (a) Experts stressed the need for the international community to be better organized and to respond more speedily to emergencies and disasters, including by delivering financial assistance through accelerated procedures;
- (b) Developed countries were called to provide platforms for aid and for the delivery of resources needed in these cases;
- (c) Questions were raised about the need to develop a special legal framework in such cases;
- (d) Proposals were put forward that work should be conducted on a longer-term approach in the event of environmental emergencies and natural disaster;
- (e) Attention was drawn to the issue of national sovereignty in the context of providing foreign aid;
- (f) Emphasis was placed on the involvement of the private sector;
- (g) For developing countries, crucial importance attached to the promotion of cooperation mechanisms for preventive actions, and also to facilitate the mitigation of disasters and recovery and rehabilitation efforts;
- (h) The need to define the legal status of environmental refugees was discussed;
- (i) National preparedness programmes and actions to prevent, mitigate and combat disasters, including the role of and need for civil assistance, were described and attention drawn to their key importance.

6. Pollution prevention and control

50. A number of experts stressed that all sources of pollution should be tackled, given that point and non-point sources of pollution could affect human health and environment, and the scope of this section of the programme should be extended to make it more generic. In this context, it was proposed that the reference to urban development should be deleted.

51. Where the regional agreement on transboundary air pollution and consideration of the feasibility of the development of a global agreement were concerned, attention was drawn to the continuing consideration under the 1979 Convention on Long-range Transboundary Air Pollution developed under the auspices of the United Nations Economic Commission for Europe that the convention's scope should be extended to the northern hemisphere.

52. Some experts pointed out that the proliferation of international conventions in the field of chemicals appeared to illustrate the fragmentation of environmental governance and that the Montevideo Programme IV, as a ten-year programme covering the period up to the year 2020, should at least endeavour to explore the feasibility of a framework convention in the field of chemicals. Other experts expressed reservations concerning references to examining or exploring the feasibility of new international legal instruments in the field of transboundary air pollution or a framework convention on chemicals, noting that the Governing Council should decide on the development of such instruments when required.

53. Some experts underscored the need to focus on the implementation of the existing multilateral environmental agreements. Noting also that efforts were already under way among the Basel, Rotterdam and Stockholm conventions to enhance cooperation and coordination with support from UNEP, experts pointed out that the governing bodies of those multilateral environmental agreements and the Governing Council of UNEP should be invited to consider further enhancing cooperation among them. That undertaken could be spelled out in the Montevideo Programme IV.

54. The view was expressed that consideration might be given to the possible development of a world charter on air pollution. In general, attention was drawn to the need to strengthen national laws and policies to address pollution problems.

55. Some experts noted that strategic environmental assessments and the related policy and legislation would be helpful in addressing pollution-related issues. Environmental impact assessments, of both national and transboundary scope, were considered an important tool in efforts to tackle pollution. Questions were voiced about the appropriateness of the development of strategic environmental assessment plans and legislation.

56. Some experts drew attention to the increasing levels of air pollution in cities caused by cars and motorcycles, and to the need to tackle this problem through legislative measures. In that context, they cited the current UNEP partnership initiative on clean fuels, mounted to promote the use of unleaded gasoline.

7. New technologies

57. Some experts pointed out that South-South cooperation would be beneficial in addressing technology-related issues. Experts learned about a national experience of ionizing radiation generated by antennas for mobile phone communications and heard concerns that it might negatively affect human health and the environment. Some experts pointed out the importance of promoting cooperation for information exchange on environmental and health issues associated with new technologies. The importance of using appropriate new technology was also noted.

58. It was noted that the Organization for Economic Cooperation and Development (OECD) was working on nanotechnology, and that continuing work should be duly taken into account when considering new technology under the Montevideo Programme IV. The view was also expressed that access should be facilitated to the existing appropriate technologies, with a view to tackling emerging issues, such as climate change, as it was often difficult for developing countries to undertake such efforts on available resources..

8. Proposed new chapter on synergies among multilateral environmental agreements

59. Noting the need to enhance cooperation and coordination among multilateral environmental agreements, a new chapter on synergies was proposed, with the following objective and strategy:

“Objective: to increase cooperation and coordination among multilateral environmental agreements in order to facilitate and strengthen the national implementation of these agreements in a more efficient manner.

“Strategy: setting up means and mechanism among multilateral environmental agreements to strengthen cooperation in order to reach common goals and to achieve joint implementation and to facilitate decision-making to this end.”

E. Relationship with other fields

1. Human rights and the environment

60. Some experts were of the view that basic rights to life, human health and human integrity, and more general human rights, were closely linked to environmental protection. Some experts were of the view that the human-rights-based approach and its linkage to human health and environment should be highlighted. Some experts suggested that due consideration should be given to the concept of so-called “environmental rights” as an integral part of human rights. The view was expressed that States had an obligation to consider rights to the environment. Some experts recalled the rights to life under their national constitutional law, and their relevance to the environment.

61. Some experts were of the opinion that UNEP should be addressing the linkages between human rights and the environment. At the same time, other experts reported that their countries did not follow rights-based approaches in respect of the environment and they accordingly expressed reservations as to whether or not UNEP should pursue a rights-based approach.

62. It was noted that the rights-based approach had become an important component of United Nations country-level development cooperation activities and that, where UNEP country activities were concerned, UNEP would be required to be guided by the rights-based approach as part of the Organization's "Delivering as One" initiative.

63. It was suggested that the UNEP secretariat should disseminate the relevant information on this issue, including information provided in the context of the Council of Europe. The view was expressed that UNEP should establish legal mechanisms to protect human rights as they related to the environment, and also to disseminate relevant information to Governments. In that respect, attention was drawn to the provisions of the Aarhus Convention relating to access to justice and information.

2. Trade

64. Some experts suggested that further consideration should be given to the relationship between economy and the environment. Some experts drew attention to the environmental problem of illegal trade, for instance, in genetically modified organisms. Other experts noted the problem of alien invasive species affecting local plants and animals.

65. It was pointed out that some trade-related multilateral environmental agreements were already in existence and that the governing bodies of such agreements should be invited to cooperate in trade-related measures. The view was expressed that attention should be given to the relationship between transport and trade and consequential air pollution.

3. Security and the environment

66. Some experts felt that it would be helpful to clarify the meaning of "traditional concept of security", as spelled out in the objective of this section, in order more effectively to reflect the relationships between security and the environment.

67. The view was expressed that conflicts could be prevented through sound use of the "commons" and that regulations governing exploitation of the "commons" could help reduce conflict and promoting sustainability of the environment. Some experts suggested that the title of the section should be changed to read "environment and security". It was noted, furthermore, that critical environmental issues, such as water and climate change, would have implications for security.

68. Some experts were of the view that the relationship between security and environment should be dealt with in a wider context, such as food security.

4. Military activities and the environment

69. Some experts underscored the importance of this section and argued that the section should be retained as contained in the Montevideo Programme III, and also in the Montevideo Programme as a whole. Other experts were of the view that the strategy under this section should include a statement on the following lines: "to make use of the military sector to engage in the protection of the environment."

70. Some experts noted that in their countries the military sector was exempted from the application of national laws relevant to the protection of human health and the environment, and that such exemption might have negative impacts on military personnel and their families who could have been protected under the applicable laws.

71. It was suggested that military personnel should be included among the list of parties eligible for capacity-building training, under paragraph (b) of section B on capacity-building. It was also reported that there was a government-funded legal study, dealing with some issues covered under this section.

72. It was noted that UNEP was facilitating information exchange and sharing of experiences among Governments concerning the application of environmental norms by military establishments during peacetime. It was noted that in the context of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, consideration was given to the transboundary movements of the remnants of armed conflicts, such as used munitions. Following the third World Conservation Congress, held in 2004, the World Conservation Union (IUCN) had established a specialist group to consider the legal implications of armed conflicts and the environment.

5. Proposal for a new section on tourism

73. There was a proposal to add a new section on tourism.

F. Emerging and important issues posing new challenges in the field of environmental law

74. A document on emerging and important issues posing new challenges in the field of environmental law (UNEP/Env.Law/MTV4/IG/1/3) was presented by the UNEP secretariat at the meeting. While some experts felt that the document contained useful information, it was decided not to discuss it further at the current meeting.

IV. Adoption of the report

75. The report of the meeting was adopted on 30 November 2007, on the basis of the draft report circulated at the meeting and the comments thereon provided by experts.

V. Closure of the session

76. Following the customary exchange of courtesies, the meeting was closed at 12.40 p.m. on 30 November 2007.

Annex

Draft outline of a future Montevideo Programme IV, as prepared by the Meeting of Experts on a Programme for the Development and Periodic Review of Environmental Law at its first session, held in Geneva from 3 to 5 September 2007:

Note: The changes to the text of the Montevideo Programme III are highlighted, either with underlining in the case of additions, or with strike-out for deletions.

~~The Programme for the development and periodic review of environmental law for the first decade of the twenty-first century~~

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 the UNEP biennial programmes of work.

I. Effectiveness of environmental law

A4. 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, and, 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.

B2. 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) Empower national authorities to identify, collect, organize and disseminate scientific information and data relating to the environment;

(i) Promote the compilation and dissemination of environmental jurisprudence.

C3. 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 ~~to~~:

(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.

D4. Avoidance and settlement of international environmental 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 ~~regard~~ respect to the avoidance of environmental disputes, encourage States ~~to~~:

(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 regard to the settlement of environmental disputes:
- (i) ~~To~~ 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) ~~To~~ study experience regarding dispute settlement provisions of international environmental agreements in order to assess the effectiveness of those provisions;
 - (iii) ~~To~~ identify the most effective mechanisms for settling environmental disputes;
 - (iv) ~~To~~ facilitate the use of expert opinions, as appropriate, for settling environmental disputes;
 - (v) ~~To~~ 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.

E5. 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 Environment¹ and the 1992 Rio Declaration on Environment and Development,² identify the extent to which they are applied internationally and disseminate the resulting information to States, taking into account Agenda 21,³ the Johannesburg

¹ *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).

² *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.

³ *Ibid.*, resolution 1, annex II.

Declaration on Sustainable Development⁴ and the Johannesburg Plan of Implementation of the World Summit on Sustainable Development:⁵

- (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) ~~Encourage~~ Continue supporting efforts by academics and researchers towards ~~better organization of further development of~~ international environmental law, ~~starting with~~ including its ~~compilation as a possible step towards~~ codification.

F6. 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, or regional or subregional level;
 - (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.

G7. Public participation and access to information

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

Strategy: Promote and further develop legal and practical means to increase transparency,

⁴ *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

⁵ *Ibid.*, chap. I, resolution 2, annex.

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) ~~Review~~ 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.

H8. Information technology in decision-making

Objective: ~~To improve the development, content, effectiveness and awareness of environmental law through the use of new and existing information technology. 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 ~~information~~ technologies in the ~~development~~, 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 ~~that may lack access to some or all aspects of information technology~~ lesser access to information technology tools.

Action:

- (a) ~~Study and promote ways in which new and existing information technologies can be used to~~ 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)(++) Promoteing dialogue and public participation in environmental matters especially in the context of environmental impact assessment;
 - (v)(+++) Avoideing or settling environmental disputes;
 - (vi)(+++) Strengthening enforcement and compliance;
 - (vii)(++) Increaseing efficiency in the cooperative activities of multilateral environmental agreements;
 - (viii)(vi) Improveing 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).

I9. Other means to increase the effectiveness of innovative approaches to 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 ~~management~~ sustainable use of natural resources

A10. Fresh and marine water ~~Freshwater resources~~

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 ~~fresh~~water resources.

Action:

~~(a) Encourage international cooperation to the end of ensuring access to clean drinking water, particularly in countries affected by the problem of drought or lack of water;~~

(a) Encourage States to develop and apply law and policies for ~~the purposes of the~~ sustainable use of ~~fresh~~water resources and their protection from ~~contamination~~ 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 ~~fresh~~ all water resources;

~~(b) Assess experiences of States with regard to water supply, waste water treatment and sanitation;~~

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

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

11. Coastal and marine ecosystems

~~**Objective:** To promote and improve the integrated management, conservation and sustainable use of coastal and marine resources and ecosystems.~~

~~**Strategy:** Promote the effective implementation of international instruments and domestic laws and policies for the integrated management, conservation and sustainable use of coastal and marine resources and ecosystems.~~

~~**Action:**~~

~~(a)(e) Promote respect for and effective implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities; the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and other international instruments relating to protection and sustainable use of coastal and marine resources and ecosystems;~~

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

~~(e)(g) Collaborate with relevant international bodies on legal issues relating to the enhancement of the conservation and sustainable environmentally sound management of non-living marine resources, ~~including fisheries;~~~~

~~(d)~~(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;

~~(d)~~— Study and, as appropriate, promote land use planning and the creation of marine protected areas for the integrated management, conservation and sustainable use of coastal ecosystems;

~~(e)~~(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;

~~(f)~~(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.

C12. 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 domestic~~ 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 domestic~~ laws and policies;

(c) Explore ways to develop new legal instruments to address the conservation and sustainable use of soils.

D13. 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 domestic~~ 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 domestic~~ law and practice that provide incentives for the conservation of forests and the removal of disincentives for ~~local people to~~ conserve forests such conservation;

(c) Encourage the elaboration of national and local domestic 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.

E14. 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 domestic 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;

F16. 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;

(e) (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 people and other vulnerable sectors of society:

(i) Promote awareness among 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.

E17. 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 ~~further laws and policies~~ legal frameworks aimed at preventing ~~man-made disasters and~~ responding to and mitigating ~~man-made~~ human-caused and natural disasters.

Action:

(a) In close cooperation with Governments, ~~public international~~ organizations and civil society, develop and promote ~~policies,~~ laws and institutions to prevent ~~man-made~~ 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;

~~(b)(c)~~ Promote international cooperation in establishing the development of international cooperative mechanisms for disaster prevention and preparedness, including early warning systems for environmental emergencies;

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

~~(d)~~ Collaborate with relevant bodies to address legal issues relating to the phenomenon of environmentally disruptive ocean currents, in particular the “El Niño” phenomenon.

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

F15. Pollution prevention and control

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

Strategy: Strengthen and expand existing instruments and develop new ~~legal instruments and guidelines~~ 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 ~~in~~ to strengthening ~~their~~ national legislation and institutions to prevent, reduce and control at source pollution, in particular transboundary air and water pollution;

(c) Develop and promote ~~means in local~~ laws and practices ~~for taking measures at the local level~~ to address transboundary air and water pollution;

~~(d)~~ Promote the effective implementation of international environmental regimes relating to climate change and ozone layer depletion;

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

(e) ~~Promote the effective implementation of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;~~

(f) ~~Promote the effective implementation of multilateral environmental agreements in the field of chemicals, including adherence to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and to a global legally binding instrument on persistent organic pollutants;~~

(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) ~~Elaborate a strategy to enhance the coherence between~~ 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, among other measures, contingency plans, public right-to-know programmes and cleaner production process methods;

(j) Promote the development of ~~domestic national~~ laws and policies that encourage integrated pollution control, 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 ~~at in the national level 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 more effectively address environmental problems of urban areas, coordinating closely with other relevant international organizations, including the ~~United Nations Centre for Human Settlements (UNCHS) (Habitat)~~ United Nations Human Settlements Programme (UN-Habitat);

(n) ~~Conduct studies on particular issues and challenges associated with environmental impact assessments~~ 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 precaution.

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 precaution;

(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.

B18. 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 ~~trade and environment~~ 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 impact 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.

C19. 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.

D20. 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 to what extent the rules on warfare are protective of the environment, to what extent 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.
