



**United Nations  
Environment  
Programme**

Dist: General  
22 October 2008

Original: English



**Meeting of senior government officials expert in  
environmental law to prepare a fourth Programme for  
the Development and Periodic Review of  
Environmental Law (Montevideo Programme IV)**  
Nairobi, 29 September–3 October 2008

**Report of the meeting of senior government officials expert in  
environmental law to prepare a fourth Programme for the  
Development and Periodic Review of Environmental Law  
(Montevideo Programme IV)**

**I. Introduction**

1. The meeting of senior government officials expert in environmental law to prepare a fourth Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme) was held at the headquarters of the United Nations Environment Programme (UNEP), Nairobi, from 29 September to 3 October 2008.

**II. Opening of the meeting**

2. The meeting was opened at 10.10 a.m. on 29 September 2008 by Mr. Bakary Kante, Director of the UNEP Division of Environmental Law and Conventions.

3. In his opening statement, Mr. Kante welcomed representatives and noted, with gratitude, the attendance by representatives of multilateral environmental agreement secretariats. He stressed that the objective of the current meeting was to design the architecture of the next 10-year environmental law programme and emphasized how important environmental law had been for UNEP, contributing to its credibility and global stature.

4. He underscored that the Montevideo Programme was the product of fruitful cooperation between UNEP and relevant stakeholders, including Governments, universities, civil society and non-governmental organizations, for the benefit of member States. He paid tribute, in particular, to Mr. Daniel McGraw, who had played an invaluable role in the field of environmental law. He underlined the importance of producing a realistic, effective and results-based fourth Montevideo Programme. Recalling that UNEP was at the service of its member States, he highlighted its commitment to partnerships, including with legal practitioners.

5. One challenge in designing the programme was to anticipate the emerging issues that would need to be tackled; whether those issues were related to multilateral environmental agreements or to other emerging issues, it was crucial to design a framework that would allow for meeting challenges in the future. He stated that Ms. Iwona Rummel-Bulska, Senior Legal Adviser, Division of Environmental Law and Conventions, had been at the helm of the environmental law branch for many years and, in view of her extensive experience, had been working, among other things, on the elaboration of the current programme.

6. He urged representatives to help UNEP devise a new approach to environmental law, thereby assisting Governments to develop, comply with and enforce national, regional and international legislation. To that end, he wished representatives fruitful deliberations.

7. Ms. Rummel-Bulska reiterated the importance of UNEP seeking partnerships, including with lawyers. Stressing the importance of revitalizing environmental law, she expressed her conviction that the Montevideo Programme would prosper if it focused on national, regional and international agreements.

### **III. Election of officers**

8. At its opening session, the meeting elected the following officers by acclamation:

Chair: Mr. Denis Langlois (Canada)

Rapporteur: Mr. Larsey Mensah (Ghana)

### **IV. Organizational matters**

#### **A. Attendance**

9. The meeting was attended by representatives from the following countries: Antigua and Barbuda, Argentina, Austria, Bahamas, Bangladesh, Belize, Bolivia, Bhutan, Brazil, Burkina Faso, Burundi, Canada, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Côte d'Ivoire, Cuba, Czech Republic, Democratic Republic of the Congo, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Fiji, Finland, France, Gambia, Germany, Ghana, Grenada, Guatemala, Guinea, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Japan, Kenya, Kiribati, Kyrgyzstan, Lao People's Democratic Republic, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Nepal, Netherlands, Nicaragua, Niger, Oman, Pakistan, Panama, Paraguay, Peru, Russian Federation, Rwanda, Samoa, Saudi Arabia, Senegal, Serbia, Somalia, Sri Lanka, Sudan, Suriname, Swaziland, Switzerland, Syrian Arab Republic, Timor Leste, Togo, Turkey, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Zimbabwe.

10. Representatives from the following United Nations bodies and convention secretariats also attended the meeting: Secretariat of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Secretariat of the United Nations Framework Convention on Climate Change, Secretariat of the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, Secretariat of the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer, United Nations Industrial Development Organization, World Bank.

11. The meeting was also attended by representatives of the following non-governmental organizations: Centre for International Environmental Law, International Council of Environmental Law.

## **B. Adoption of the agenda**

12. The meeting adopted the following agenda on the basis of the provisional agenda set out in document UNEP/Env.Law/MTV4/IG/2/1:

1. Opening of the meeting.
2. Election of officers.
3. Organizational matters:
  - (a) Adoption of the agenda;
  - (b) Organization of work.
4. Preparation of the draft fourth programme for the development and periodic review of environmental law.
5. Consideration of recommendations.
6. Other matters.
7. Adoption of the draft programme, recommendations and the report.
8. Closure of the meeting.

## **C. Organization of work**

13. It was decided that the meeting would undertake its work primarily in plenary session. It was agreed that, on the first day, the meeting would convene from the time of opening until 1 p.m. and from 3 p.m. to 6 p.m. and for the following four days from 9.30 a.m. to 12.30 p.m. and from 2.30 p.m. to 5.30 p.m.

## **V. Preparation of the draft fourth programme for the development and periodic review of environmental law**

### **A. Introduction**

14. Introducing the item, Ms. Rummel-Bulska explained that preparation of the draft fourth programme for the development and periodic review of environmental law (Montevideo Programme IV) had begun in time for its consideration and possible adoption by the Governing Council at its twenty-fifth session, to be held in February 2009. The draft programme had been developed by UNEP in conjunction with senior advisers and reviewed in November 2007 at a meeting of experts. The document before the current meeting set out changes requested at that meeting. The report of the meeting was contained in document UNEP/Env.Law/MTV4/IG/1/4, annexed to which was the draft Montevideo Programme IV. The draft Programme contained 27 sections in four chapters.

15. It was agreed that the meeting would review the document on a section-by-section basis.

16. A number of representatives reiterated the need to ensure coordination with other forums working on similar issues, including other United Nations bodies, to avoid duplication of activities, to focus on the mandate and comparative advantage of UNEP and to add value to the work being undertaken in the context of multilateral environmental agreements. One representative pointed out that UNEP had a good track record as a convener of Governments on emerging global environmental issues and stressed that the organization should focus on promoting implementation of multilateral environmental agreements at the national and regional levels; a positive example of such work was furnished by the UNEP guidelines on compliance with and enforcement of multilateral environmental agreements. UNEP could also develop and formulate capacity-building activities for delivery under Montevideo Programme IV, including support to negotiators. A number of representatives pointed to need for careful consideration of the articulation between the work undertaken by UNEP and that undertaken in the context of the multilateral environmental agreements.

17. One representative suggested that the issue of avoiding duplication of efforts could be tackled in the draft document in one of two ways: either a general statement could be made that the role of UNEP would vary according to the involvement of other organizations and the issue to be tackled or, alternatively, references could be included on an issue-by-issue basis throughout the document. He noted that in the past it had been decided that the latter option was too time-consuming.

18. Several representatives spoke of the need to dovetail the Programme with the UNEP medium-term strategy. Others stressed the ambitious nature of Montevideo Programme IV owing to its focus on major topics for debate such as risks, social participation and liability.

19. Other issues raised by individual representatives included: the importance of incorporating in the document the emerging issue of health and environment and the particular situation of coastal regions and small island developing States in the climate change section; the importance of cooperation and coordination with multilateral environmental agreements; the need to clarify the scope and future use of the document; the importance of providing additional detail on who would undertake actions, especially for new components and areas where UNEP was not the lead institution; prioritizing work to guide the allocation of resources; the need to clarify the relationship between Montevideo Programme IV and the UNEP draft programme of work and proposed budget for the biennium 2010–2011; the importance of developing a robust results based framework for the Montevideo Programme, including indicators of achievement and expected outcomes.

20. One representative noted that the development of indicators and outcomes was indeed desirable, but he urged other representatives to bear in mind the difficulties of being specific as Montevideo Programme IV was an ambitious 10-year programme dependent on the appropriate resources and political will.

21. One representative sought clarification on the outcomes of meetings of representatives held in Nairobi in 2008 on two sets of draft guidelines. He requested that the outcomes of those meetings be made available to representatives.

22. In response, Ms. Rummel-Bulska said that two sets of draft guidelines for the development of national legislation on liability and compensation for environmental damage and on access to information, public participation and access to justice in environmental matters, respectively, had been adopted by Government experts at meetings held in June 2008 for submission to the Governing Council at its twenty fifth session. She noted that the guidelines would be distributed to representatives in the following days and had already been distributed to permanent missions in Nairobi, focal points and ministries in member States' capitals. She stressed that while the Montevideo Programme IV and the medium-term strategy were aligned, the former was a 10-year proposition, while the latter had been adopted for a two-year period. She welcomed the participation of representatives of multilateral environmental agreements in the current meeting, but urged them to recognize that the role of UNEP was mainly catalytic; the organization did not seek in any way to assume the mandates of multilateral environmental agreements.

23. Mr. Masa Nagai, Senior Legal Officer, Division of Environmental Law and Conventions, noted that reference had been made in the strategic framework of UNEP to the Montevideo Programme. The subprogramme on environmental governance in the programme of work also contained two references to the Montevideo Programme. One of the reasons for developing Montevideo Programme IV at that juncture, he said, had been to dovetail it with the cycle of the programme of work and medium-term strategy, both of which were due to commence in 2010.

24. Ms. Rummel-Bulska reiterated that mention had been made of the Montevideo Programme in the programme of work 2010–2011. While environmental law did not comprise a subprogramme of the programme of work, there was a normative element to the work of each subprogramme.

## **B. Consideration of the draft programme**

25. During the adoption of the successive chapters and sections of the draft text of the Montevideo Programme IV, a number of representatives raised concerns or made suggestions that they wished to have reflected in the report of the meeting. Those comments and concerns are detailed below.

26. One representative drew attention to the importance of the norms and standards of the multilateral trade system, which, he said, should be taken into consideration when formulating the draft programme.
27. Under section A of chapter I, on implementation, compliance and enforcement, the informal drafting group presented wording that it had developed as set out in a conference-room paper. One representative requested the deletion of subparagraph (e) (iv) on developing mechanisms for the avoidance and settlement of disputes relating to the environment as he was unsure what that might entail. He maintained that the reference to the multilateral trade system in paragraph (h) should be deleted as it was not appropriate to specify the link between trade and environment. It was also his preference that paragraphs (i), (j) and (k) should be deleted from the document.
28. Under section E of chapter I, on the strengthening and development of international environmental law, one representative noted the importance of making reference to the work of other organizations on the gradual codification of national legislation to dovetail it with international law. He noted, in particular, the significance of the work of economists and researchers and specialized bodies, including the United Nations International Law Commission, which was, for example, considering a draft article on transboundary aquifers.
29. Under section H of chapter I, on information technology in decision-making and the development of baseline information on the state of the environment or its components and natural resources, one representative said that some reference to biodiversity should be made, given its overall importance to environmental issues. On the same section, another representative stressed the need to reduce the divide in availability of information technology. In current circumstances, some sectors of society did not have access to legal information on environmental matters, particularly in least developed countries. His country supported the use of all means of communication to enable access to justice. A third representative said, also with reference to that section, that, while the development of baseline information on the state of the environment or its components and natural resources was all well and good, it was also necessary to systematize such information, given that, in many countries, much information was developed, but little support was made available in terms of systematization.
30. Under section J of chapter I, on environmental governance, a representative expressed concern about the reference to the private sector in paragraph (d), noting that there was no reference to the private sector in either the stated objective or the strategy for that section. Several representatives, with reference to the objective and strategy of the same section, were uncomfortable about the removal of reference to local levels, and one felt that there should be reference to all levels.
31. Under section A of chapter II, on fresh and marine water, one representative pointed to the need to clarify that the appropriate understanding of references to water resources in that section ought to be that adopted under relevant instruments and programmes and that clearly differentiated between freshwater resources, coastal areas and marine resources, so as to have a consistent understanding and application of relevant principles and concepts.
32. On the same chapter, another representative said that, while riparian States had equal rights to use a shared water body, in general, one country was responsible for the protection and conservation of the source of that water body. He requested the inclusion of the need to help such States in the protection and conservation of those sources of water in paragraph (c) of section A.
33. Under section E of that chapter, on biological diversity, one representative noted his objection to the link being made in paragraph (c) between trade and environment.
34. Under section F of that chapter, on sustainable production and consumption patterns, one representative said that his Government objected to the use in paragraph (a) of the term "life cycle" and to the term "green procurement" in paragraph (c).
35. Under section A of chapter III, on challenges to environmental law, one representative noted that, while her country fully recognized the importance of climate change, that issue was being dealt with in the context of the United Nations Framework Convention on Climate Change. Collaboration and coordination with the Convention was, therefore, essential, as was the need to avoid duplication of efforts, especially considering the limited resources. Noting that negotiations were under way on an

international post-2012 climate change regime, she stressed the importance of Montevideo Programme IV not prejudging the direction or outcome of those negotiations. Some other representatives agreed that United Nations discussions on climate change, in particular legal approaches thereto, should be kept within the United Nations Framework Convention on Climate Change.

36. Under section C of that chapter, on access to drinking water and sanitation, one representative sought clarification of whether the medium-term strategy modified the mandate of UNEP. The understanding of his Government was that the Governing Council had authorized the Executive Director to use the medium-term strategy as guidance in producing the programme of work and budget.

37. Under section F of that chapter, on pollution prevention and control, one representative stressed that the problem of pollution was the most pressing emerging issue on the environmental agenda, noting that there were very few unpolluted areas left on the planet. She said that the issue could not be tackled in environmental law without taking into account the seventh principle of the Rio Declaration. It was, therefore, necessary to incorporate reference to the transfer of technology and financing therefor in that section. She proposed the following wording: "To support States to forge and implement policies and legal instruments in the field of technology transfer to reduce, eliminate or control pollution, including technologies to monitor relevant activities".

38. With reference to paragraph (f) of the same section, on exploring the feasibility of a framework convention on chemicals, one representative requested the deletion of the paragraph in the interests of being realistic; the exploration of the feasibility of such a framework convention would be a difficult and unproductive exercise and would not represent the best use of limited resources. A number of representatives supported that view; several representatives stressed that a number of existing multilateral environmental agreements dealt with the issue of chemicals. Some representatives opposed the deletion of the paragraph, noting the importance of exploring the viability of such a convention; the appropriateness of doing so in the context of the Montevideo Programme; the importance of avoiding duplication of efforts among chemicals conventions, which a framework convention might achieve. One representative suggested amending the wording of the paragraph to reflect the need for UNEP to work in conjunction with existing chemicals conventions on the matter. Another representative, stressing that the Montevideo Programme covered a 10-year period, pointed to the difficulty of predicting how realistic a framework convention on chemicals might be over time. A number of representatives highlighted that the task outlined in the paragraph was well within the mandate of UNEP. The Chair suggested the addition of wording reflecting the need to consult with Governments and relevant convention bodies in exploring the feasibility of a framework convention on chemicals, which the representatives accepted.

39. With regard to section B of chapter IV, on trade and the environment, one representative stated that his Government did not agree to the use of trade measures to achieve environmental goals, in particular the use of such measures for enforcing multilateral environmental agreements, as it was of the view that trade and the environment should not be linked. Another representative stated that there was a need to take into account the multilateral trade system, particularly the principles and norms of the World Trade Organization.

40. Under section D of chapter IV on relationships with other fields, one representative advocated the deletion of subparagraphs (e) (i) and (ii), as he felt that it might be difficult to carry out studies on such issues. That view was not, however, supported by other representatives.

41. One representative, supported by some others, proposed the following additional text for the section on challenges to environmental law regarding the sustainable development of the Arctic region in accordance with a decision adopted at the previous session of the Governing Council:

**Objectives:** To promote environmental protection and the sustainable development of the arctic region.

**Strategy:** Raise awareness for possible gaps and weaknesses in existing international environmental law in order to facilitate international action in response to new environmental challenges in the arctic region.

**Action:** Undertake studies on the existing legal instruments governing activities in the arctic region with the aim to detect gaps or overlapping areas in the international law governing human activities in this particular area.

42. It was his position that insufficient work in that area had been undertaken and that UNEP, having an overview of all multilateral environmental agreements, should undertake work thereon, for example, reviewing existing legislation to provide more certainty in that field. In response, several representatives said that they could not support the proposal, pointing out that significant work had already been undertaken under the United Nations Convention on the Law of the Sea and the Arctic Council as recently as May 2008 and that further work thereon did not fall within the purview of the Montevideo Programme. One representative said that reference could be made to vulnerable ecosystems in the section on ecosystems to keep a reference. That was echoed by another representative, who stressed the danger posed by climate change to the Caribbean region and noted that it was currently one of the most pressing issues facing the international community. It was decided that the proposed text would not be included in the Montevideo Programme.

43. One representative called for mention to be made of remuneration for environmental services.

44. Another representative proposed that UNEP should assist Governments in the implementation of international, regional and national legal regimes through natural resource accounting systems and sustainable development assurance audits in cooperation with relevant international and regional bodies mandated to carry out such activities.

45. Three representatives jointly proposed additional text to be used as a chapeau to the document, bearing in mind that UNEP had changed its way of delivering its activities from divisional silos to a thematic focus in accordance with its new medium-term strategy. In that text, they proposed that, for UNEP, the implementation of those activities would be consistent with the biennial programmes of work and the medium-term strategy, and they asserted that, by its decision SS.X/8, the Governing Council had authorized the Executive Director to use the medium-term strategy as a guiding high-level programmatic results-based framework against which the overall performance of all UNEP activities would be judged, and implementation of UNEP components of that programme would therefore be delivered through the six UNEP thematic priority areas, drawing on lessons learned and in line with the identified comparative advantages of UNEP. One representative said that there should be some reference made thereto in the Montevideo Programme, even if it were not such a direct reference to the medium-term strategy as that proposed, but a way that would foster a working relationship with both.

46. Several representatives spoke against the proposal, noting, among other things, that it was inappropriate for a 10-year programme to dovetail with the medium-term strategy, which was a four-year programme. Some representatives pointed out that the Governing Council only authorized the Executive Director to use the medium-term strategy 2010–2013 to formulate the strategic framework and the programme of work and the budget for 2010–2011, and merely encouraged the Executive Director to continue strengthening results-based management. The linkage between the Montevideo Programme and the medium-term strategy had not been discussed in the subcommittees of the Committee of Permanent Representatives for the medium-term strategy. Given that the change of format remained at a transitional stage, it was not appropriate to predetermine the format of the programme of work and the budget for 10 years in that programme. In the light of the opposition to the proposed additional text, the proponent withdrew it.

## VI. Consideration of recommendations

47. The Chair drew the representatives' attention to a proposed recommendation that had been produced by the secretariat and would be submitted by the Executive Director to the Governing Council. He invited comments thereon.

48. Some representatives said that they were unable to review the proposed document, given that they had not received it in advance of the meeting. Several representatives, while expressing sympathy with that position, stated that the draft recommendations should be considered. Subsequently, the representatives agreed to consider the draft recommendations. A proposal was made, on behalf of the Group of Latin American and Caribbean States, to amend the recommendation. It was agreed that the

proposal would be included in the body of the present report, rather than in the recommendation itself. The proposal read as follows:

Encourages the Executive Director to submit, for the consideration of the Governing Council of UNEP at its twenty-fifty session in February 2009, the need to have a periodic mechanism for the monitoring and evaluation of the fourth Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme IV), to bring it into line with the action plan of the UNEP medium-term strategy and to include indicators of fulfilment, specific results and associated terms.

49. Several representatives reserved the right to comment on the draft recommendation at a later stage, whether at a meeting of the Committee of Permanent Representatives or at the forthcoming session of the Governing Council.

50. The draft recommendation was adopted.

## **VII. Other matters**

### **A. Statement by the Executive Director**

51. Mr. Achim Steiner, Executive Director of UNEP, addressed the meeting, welcoming the representatives to what he considered to be the most important forum for guiding the future work of UNEP in the field of environmental law. The Montevideo Programme had become the beacon by which it was possible to consider an extraordinary array of environmental law, a domain in which Governments had expressed interest in developing instruments. He noted that UNEP had been undergoing a process of revision to give it a catalytic and transformative role under the new medium-term strategy, of which environmental law formed a part, given that UNEP was the custodian of its development.

52. He also stressed the importance of synergies in that they needed to reconcile the development of the many environmental law instruments while recognizing the opportunities had been lost in the past to create synergies and avoid duplication and overlapping. Lastly, he called for UNEP to rediscover its passion for environmental law, with the ultimate goal of capacity-building for stakeholders to be accountable. Many agreements were signed, bringing with them binding obligations, but there was little accountability, which undermined the rationale for engaging in lengthy and arduous negotiations. The guiding principal in the years ahead should be, he said, support for capacity-building and enforcement with regard to legal instruments, lest the potential be created for ever greater frustration and even disenchantment in the environmental law field. He called for the representatives to provide guidance to UNEP that could be taken as a strong message to the Governing Council.

### **B. Preliminary draft compilation of internationally agreed environmental goals and objectives**

53. Representatives had before them the preliminary draft compilation of internationally agreed environmental goals and objectives prepared by the secretariat with the assistance of a small group of experts (UNEP/Env.Law/MTV4/IG/2/INF/2). The representative of the secretariat introduced the document during consideration of the draft programme. It contained information on internationally agreed environmental goals as contained in the relevant existing international instruments, such as the outcomes of United Nations summits and conferences and multilateral environmental agreements. The representative said that, since it was a preliminary draft and the secretariat would continue to improve its contents, the secretariat would welcome comments and suggestions on the compilation.



54. One representative recalled that, at the previous meeting on the Montevideo Programme (26 October–30 November 2007), it had been 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”. She said that, as non-compliance with the existing international obligations might be attributed partly to the lack of such an overview, such a compilation could be an important tool for countries to help them to implement existing international environmental agreements. Her Government welcomed and supported the work that UNEP had accomplished since the previous meeting in that area, as it was convinced that such a compilation would be able to give a better overview of existing commitments and would help to understand better internationally agreed environmental objectives, goals and targets by setting them in a broader context. Moreover, that would be a first crucial step towards strengthening the focus of the international environment regime, increasing the awareness of the need to address global environmental challenges, reaffirming the international commitment to the protection of the environment, clarifying and strengthening the contribution of the environmental pillar to sustainable development and to the realization of the Millennium Development Goals, stimulating specific action for the protection of the environment and generating new means of implementation.

55. Her Government supported the approach taken by UNEP to make a clear distinction between legally binding goals and legally non-binding objectives and agreed that it would not be appropriate to seek to formulate an overarching common goal. The compilation benefited most from a factual and technical approach that did not seek to develop new formulations but that provided a comprehensive overview of agreed objectives. Lastly, she said, her Government would also support the 10 clusters used in the compilation. Work on the compilation should be continued and should be presented at the forthcoming session of the UNEP Governing Council.

### **VIII. Adoption of the draft programme, recommendations and the report**

56. The representatives adopted the text of the draft fourth programme for the development and periodic review of environmental law (Montevideo Programme IV), as contained in annex I to the present report.

57. The representatives also adopted the recommendations, as contained in annex II to the present report.

58. The representatives adopted the report of the meeting, on the understanding that the Rapporteur, working in consultation with the Chair, was entrusted to finalize the report incorporating the proceedings of the last session of the meeting.

59. At the time of the adoption of the draft programme, one representative expressed his concern that the document should be further improved before its submission to the Governing Council at its next session and distanced himself from the decision, while giving assurances that his Government would not stand as an obstacle to the process and block the consensus reached.

### **IX. Closure of the meeting**

60. Following the customary exchange of courtesies, the Chair declared the meeting closed at 5.50 p.m. on Friday, 3 October 2008.

## Annex I

### Draft fourth Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme IV)

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

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

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

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

**Action:**

- (a) Conduct studies on:
  - (i) The effectiveness of, and compliance with, international environmental law, identifying the underlying causes of non-compliance; and
  - (ii) The effectiveness of domestic and national 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 at subregional and regional levels;
- (c) Explore the possibility of developing 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 and small island developing States, 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 and small island developing States, 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 strategies or action plans and, where appropriate, regional action plans or strategies, to assist in the implementation of international environmental obligations;
  - (iii) Exchanging information on compliance and enforcement;
  - (iv) Developing mechanisms for the avoidance and settlement of disputes relating to the environment, including enforcement of judgements and awards;

- (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, taking into account guidance materials, if any, approved by the conferences of parties to multilateral environmental agreements;
- (g) Continue comparative analyses of compliance mechanisms, including reporting and verification mechanisms, under different multilateral and bilateral 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, in accordance with international law, and the multilateral trade system, in particular the principles, rights and obligations established at the World Trade Organization;
- (i) Promote the use, where appropriate, of disincentives, including 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 and national environmental law;
- (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 national level;
- (l) Promote further regional and subregional cooperation to enhance the implementation of and compliance with international environmental law;
- (m) Promote compliance with early notification and consultation concerning planned activities and programmes that may have negative and significant environmental impact in other States or in areas beyond the limits of national jurisdiction;
- (n) Conduct studies on cooperation among States sharing natural resources;
- (o) Encourage, during the development of new international environmental legal instruments, consideration of the implementation and enforcement aspects of those instruments.

## B. Capacity-building

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

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

**Action:**

- (a) Assist the development and strengthening of domestic environmental legislation, regulations, procedures and institutions;
- (b) Arrange seminars, workshops and exchange programmes for government officials, the judiciary, parliamentarians, the legal profession, civil society organizations and others concerned, on environmental law and policy, including on the implementation of international environmental instruments;
- (c) Provide appropriate training and support to enhance the participation of representatives from developing countries, particularly the least developed among them and small island developing States, and countries with economies in transition, in international meetings and negotiations related to environmental law;
- (d) Produce and disseminate environmental law publications to serve as capacity-building tools;
- (e) Promote the teaching of domestic, international and comparative environmental law in universities and law schools and, to this end, develop teaching materials, including video and other electronic media;

(f) Collaborate with Governments and relevant international bodies in facilitating educational programmes in environmental law at the national and regional levels, in particular within the framework of the United Nations Decade of Education for Sustainable Development;

(g) Strengthen coordination among relevant international organizations and institutions, including those that provide financing, on educational projects and programmes related to environmental law, its implementation and enforcement and the underlying causes of environmental damage;

(h) Assist and promote efforts by 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.

### **C. Prevention, mitigation and compensation 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, including the consideration of 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;

(d) Support the development by States of processes and procedures for victims and potential victims of environmentally harmful activities, regardless of their nationality:

(i) To ensure effective and appropriate access to justice;

(ii) To provide appropriate redress, including the possibility of compensation, inter alia, through insurance and compensation funds;

(e) Upon request of States, 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 and small island developing States, and countries with economies in transition in the development and application of legislative, administrative and institutional mechanisms for implementing international instruments and domestic policies relating to prevention and mitigation of environmental damage.

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

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

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

**Action:**

- (a) With regard to the avoidance of environmental disputes, encourage States:
  - (i) To exchange environmental data and information regularly;
  - (ii) To assess transboundary environmental impacts of planned activities;
  - (iii) To undertake early notification and consultation concerning planned activities that may have significant adverse impacts in other States or in areas beyond the limits of national jurisdiction;
  - (iv) To undertake monitoring, fact-finding, reporting and other means and procedures for verifying compliance and addressing non-compliance;
  - (v) To consider, as appropriate, innovative approaches to dispute avoidance, such as the use of third-party neutrals to facilitate open and complete information exchange, particularly among parties with differing levels of technical expertise;
- (b) With regard to the settlement of environmental disputes:
  - (i) Study the actual and potential facilitative role of international bodies and agencies in the settlement of environmental disputes, including, where appropriate, through environmental ombudsmen;
  - (ii) Study experience regarding dispute settlement provisions of international environmental agreements in order to assess the effectiveness of those provisions;
  - (iii) Identify the most effective mechanisms for settling environmental disputes;
  - (iv) Facilitate the use of expert opinions, as appropriate, for settling environmental disputes;
  - (v) Evaluate the role that non-State actors play in the settlement of environmental disputes, and explore options for advancing their effective participation in dispute settlement mechanisms;
  - (vi) 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) Identify best practices in the existing international environmental agreements to avoid and settle environmental dispute;
- (f) Provide training in rules and procedures concerning environmental dispute avoidance and settlement for government officials and the legal profession, including the judiciary.

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

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

**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 strengths, gaps and weaknesses, including interlinkages and cross-cutting issues, in international environmental law and specify the role that it should play in responding to those challenges;

- (b) Develop criteria for determining the need for and feasibility of new international environmental instruments, taking into account existing instruments and practice;
- (c) Review the application of the principles contained in the 1972 Stockholm Declaration of the United Nations Conference on the Human Environment,<sup>1</sup> the 1992 Rio Declaration on Environment and Development,<sup>2</sup> Agenda 21,<sup>3</sup> the Johannesburg Declaration on Sustainable Development<sup>4</sup> and the Johannesburg Plan of Implementation of the World Summit on Sustainable Development,<sup>5</sup> and identify the extent to which they have been applied;
- (d) Examine other fields of international law and the relationship with international environmental law for the purpose of identifying emerging concepts, principles and practices relevant to the development and implementation of environmental law with an aim to identifying their commonalities and mutual supportiveness;
- (e) Assist Governments, particularly those of developing countries, in particular the least developed and small island developing States, 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;
- (f) 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;
- (g) Continue supporting and encourage efforts by academics, researchers and others towards identifying areas for possible further development of international environmental law.

## F. Harmonization, coordination and synergies

**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 that 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 as appropriate;
  - (iv) To promote the ecosystem approach as a means of ensuring coherent implementation of international agreements, including through capacity-building activities;

---

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.

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.

- (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) Upon request of negotiating States, provide an analysis of linkages between agreements under negotiation and the existing agreements;
- (d) Conduct studies to assist relevant conferences of the parties to multilateral environmental agreements to take action to improve ways of harmonizing and otherwise rationalizing the reporting obligations in multilateral environmental agreements;
- (e) Enhance cooperation and coordination among the secretariats and conferences of the parties to relevant multilateral environmental agreements in order to have more coordinated activities and procedures;
- (f) Promote synergies in the implementation of related multilateral environmental agreements at the national and regional levels.

## **G. Public participation and access to information**

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

**Strategy:** Promote and further develop legal and practical means to increase transparency, strengthen access to information and improve, promote and enhance 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 and small island developing States, and countries with economies in transition, to develop legal, practical and technical means to collect and disseminate information concerning the environment;
- (c) Explore legal and practical means of promoting and enhancing appropriate public participation in the implementation of, compliance with and enforcement of environmental law;
- (d) Support procedures and good 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) Continue to investigate the need for and feasibility of new international instruments on access to information, public participation in processes leading to decision-making and access to judicial and administrative proceedings relating to environmental matters.

## **H. Information technology**

**Objective:** To advance further the use of existing and new information technologies and other means of communication 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 and other means of communication in the implementation and enforcement of environmental law and the dissemination of information relating to environmental law, taking into account the special needs and circumstances of countries with lesser access to information technology tools.

**Action:**

- (a) Assist countries to take advantage of and promote, in close cooperation with Governments, the use of new and existing information technologies to improve dissemination of laws and decision-making processes, including in the following areas:
- (i) Developing of baseline information on the state of the environment or its components and natural resources;
  - (ii) Gaining full access to and using geographic information systems, including space technology information such as satellite images, remote sensing technology and global positioning system, aerial photographs and interpretation software;
  - (iii) Assisting in the development and dissemination of environmental laws;
  - (iv) Promoting dialogue and public participation, including the participation of indigenous communities, in environmental matters especially in the context of environmental impact assessment;
  - (v) Avoiding or settling environmental disputes;
  - (vi) Strengthening enforcement and compliance;
  - (vii) Increasing efficiency in the cooperative activities of multilateral environmental agreements;
  - (viii) Improving education in environmental law;
  - (ix) Improving access to justice and to the contents of 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 technologies to enhance public awareness of environmental law and to make international environmental instruments and other documents available and easily accessible 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/Food and Agriculture Organization of the United Nations (FAO)/International Union for Conservation of Nature (IUCN) environmental law database (ECOLEX).

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

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

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

**Action:**

- (a) Promote the use of tools such as eco-labelling, certification, pollution fees, natural resource taxes and emissions trading and assist States, as appropriate, in the use of such tools;
- (b) Promote the development and assess the effectiveness of voluntary codes of conduct that support compliance with national legislation and comparable initiatives that promote environmentally and socially responsible behaviour, to complement and support domestic law and international agreements;
- (c) Encourage consideration of the use of spokespersons or other measures 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 use of indigenous and local communities' practices embodying traditional lifestyles in the management and protection of the environment;
- (f) Support the promotion of ecosystem management in law and practice, including the valuation of services provided by ecosystems, such as environmental benefits;
- (g) Encourage, with the consent of States, 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 the national and international levels.

**Strategy:** Support optimal governance through collection, analysis and dissemination of information about environmental governance at the national and international 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 and identify best practices and lessons learned on how Governments, intergovernmental organizations and civil society organizations carry out activities in a transparent way in the areas of environmental policymaking and law enforcement and in respect of cooperation between Governments in addressing those issues;
- (d) Compile and analyse, where applicable, information about the nature and extent of government incentives to the private sector to promote sustainable development;
- (e) Disseminate information on the preceding topics to Governments, international organizations and civil society.

## II. Conservation, management and sustainable use of natural resources

### A. Fresh, coastal and marine water and ecosystems

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

**Strategy:** Encourage the development of national, regional and global policies, action plans and, where appropriate, legal instruments for the conservation, protection, regeneration, integrated management and maintenance of the quality, quantity and sustainable use of all water resources, including in areas beyond national jurisdiction.

**Action:**

- (a) Encourage States to develop and apply laws, rules, regulations and policies, and where appropriate legal frameworks, for the sustainable use and conservation of all water resources, including drinking water resources, and their protection from pollution and other threats, such as overuse;
- (b) Identify best practices and encourage actions by States, individually and collectively, to apply such best practices with a view to improving conservation, protection, integrated management and maintenance of the quality and sustainable use of all water resources, while ensuring appropriate public participation in those actions;
- (c) Continue reviewing and evaluating best practices in conservation, protection and sustainable use of transboundary watercourses with a view to recommending such best practices

to countries experiencing difficulties in the conservation, protection and sustainable use of transboundary watercourses;

- (d) Compile information on laws and regulations with a view to enhancing knowledge of the legal implications of the interface between freshwater and marine water;
- (e) Promote respect for and effective implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities and examine the feasibility of developing an international legally binding instrument;
- (f) Assist Governments, upon request, and relevant international bodies in the implementation and further development of regional seas and watercourse conventions, protocols and related action plans;
- (g) Collaborate, as appropriate, with relevant international bodies on legal issues relating to the enhancement of the conservation and sustainable use of water, marine resources and ecosystems,;
- (h) Collaborate with relevant international organizations on legal issues arising from the creation of marine protected areas and on the conservation and sustainable use of coastal and marine ecosystems, including in areas beyond national jurisdiction, and provide Governments, upon request, with legal and technical support in the creation of new marine protected areas;
- (i) Explore legal and practical means, where appropriate, including through regional seas and watercourse conventions, of improving the protection of coral reefs, wetlands, mangroves and other coastal and marine ecosystems;
- (j) Collaborate, where appropriate, with relevant international bodies in further integrating environmental considerations into rules relating to navigational safety;
- (k) Encourage and support efforts of States to introduce water reuse and recycling measures through appropriate water treatment mechanisms.

## **B. Aquatic living resources, including marine living resources**

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

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

**Action:**

- (a) Support, where appropriate, the efforts of relevant international organizations to promote the effective implementation and enforcement of, and compliance with, agreements, in particular the United Nations Convention on the Law of the Sea, aimed at the conservation and sustainable use of aquatic and marine living resources;
- (b) Collaborate with relevant international bodies on legal issues to assist States in the development of national legislation on the conservation and sustainable use of aquatic and marine living resources;
- (c) Collaborate with relevant international bodies in studying legal issues relating to threats to the conservation and sustainable use of aquatic and marine living resources, such as illegal, unreported and unregulated fishing, bottom trawling, long-line and other indiscriminate forms of fishing, for example, the use of chemicals or use of other substances;
- (d) Collaborate with relevant international bodies in studying, and, where appropriate, propose solutions on, legal issues relating to new uses of aquatic and marine living resources, including issues related to thermal vents, genetic resources and bio-prospecting, where appropriate;
- (e) Support States in the development of national policies and laws for the management and control of the introduction of alien species relating to fishing, in particular activities related to aquaculture and fisheries.

## C. Soils

**Objective:** To improve national and international principles and standards and to support efforts under the United Nations Convention to Combat Desertification for the further development of legal approaches for the conservation, restoration and sustainable use of soils.

**Strategy:** Promote the development, dissemination and implementation of laws and policies that aim to enhance the conservation, sustainable use, control and reduction of soil degradation and, where appropriate, restoration of soils, including in support of work conducted by relevant bodies such as the Conference of Parties, its subsidiary bodies and the secretariat of the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa.

**Action:**

- (a) Support national efforts to review and implement national laws on land use and other related fields, including change of land-use laws, with the aim of achieving soil conservation and reclamation goals;
- (b) Support the integration of soil conservation measures into relevant national laws and policies, and measures for better land-use planning and sustainable agricultural practices;
- (c) Explore ways to strengthen existing legal instruments to address the conservation and sustainable use of soils and, as necessary, their restoration;
- (d) Collaborate with Governments and relevant international bodies in facilitating educational programmes in legal matters related to the sustainable use of soils.

## D. Forests

**Objective:** To enhance the conservation and sustainable management and use of all types of forests, taking into account the ecosystem approach.

**Strategy:** Support the development and implementation of legal measures aimed at the protection, conservation and sustainable management and use of all types of forests, taking into account in particular the Non-Legally Binding Instrument on All Types of Forests adopted by the General Assembly of the United Nations.<sup>6</sup>

**Action:**

- (a) Support, where appropriate, the integration of environmental concerns into national forest policies and legislation and the integration of forest conservation and sustainable management goals into other laws related to the use of forests;
- (b) Support, where appropriate, developing countries, in particular the least developed and small island developing States, and countries with economies in transition in the implementation of laws and practices that enhance the use of incentives for the conservation and sustainable management and use of forests, and disincentives for unsustainable use of forests;
- (c) Encourage the formulation, dissemination and implementation of national laws and enhanced international cooperation in the prevention, assessment, reporting and mitigation of forest fires;
- (d) Assist in promoting coordination between Governments and international institutions in the development and implementation of internationally agreed guidelines and actions on forests.

## E. Biological diversity

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

---

6 Resolution 62/98.

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, in collaboration with relevant bodies such as the Conference of the Parties and the secretariat of the Convention on Biological Diversity, the development and application of national laws for the conservation and sustainable use of biological diversity in situ and ex situ, including through ecosystem management and land-use policies, as well as for the fair and equitable sharing of the benefits arising out of the use of genetic resources, including appropriate access to genetic resources, and for biosafety;
- (b) Assist developing countries, in particular the least developed countries 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 of promoting understanding of biological diversity and equitable sharing of the benefits arising therefrom, and promote coherence and mutual supportiveness between the environmental and the trade-related agreements;
- (d) Examine possible international responses to challenges posed by invasive alien species, taking into account the cross-cutting nature of those problems and work under way in other international forums, where appropriate;
- (e) Support the implementation of relevant multilateral environmental agreements, in particular the Convention on Biological Diversity and its Cartagena Protocol on Biosafety, by those Governments which are Parties to such agreements;
- (f) Encourage States to cooperate with other relevant international organizations, where appropriate, to identify any legal challenges concerning the impacts on environment and public health of unsustainable patterns of agricultural production and animal husbandry;
- (g) Contribute to the promotion of the exchange of information regarding best practices in the application of laws on the conservation and sustainable use of biological diversity in situ and ex situ;
- (h) Study payments for ecosystem services and other positive incentive measures at local, national, regional and international levels, their advantages and also their potential limitations and risks, their cost-effectiveness, potential implications for biodiversity and indigenous and local communities, and their consistency with other international obligations.

## **F. Sustainable production and consumption patterns**

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

**Strategy:** Support the development and application of laws and practical methods of promoting sustainable patterns of production and consumption.

**Action**

- (a) Identify and support best practices and innovative laws and policies aimed at achieving sustainable production and consumption over the whole life-cycle, including waste management;
- (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, especially those that derive from cultural traditions;
- (c) Compile and analyse information about environmental regulations and practices related to, for example, environmentally sound procurement (“green” procurement) and energy-efficient buildings;

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

(e) Promote, where appropriate, and support the elaboration of laws and policies that lead to better regulations and ecosystem sustainability through sustainable production and consumption patterns.

### III. Challenges for environmental law

#### A. Climate change

**Objective:** To support efforts under the United Nations Framework Convention on Climate Change for the further development of legal approaches concerning the mitigation of and adaptation to climate change, and to promote the effective implementation of those approaches.

**Strategy:** Support, in collaboration with relevant bodies such as the Conference of Parties, its subsidiary bodies and the secretariat of the United Nations Framework Convention on Climate Change and its Kyoto Protocol, the development and implementation of national, subregional, regional and global legal approaches to the mitigation of and adaptation to climate change, and promote the effective implementation of those approaches.

**Action:**

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

(b) Undertake analysis and assessment not already conducted under the United Nations Framework Convention on Climate Change of the effectiveness of existing legal approaches to the mitigation of and adaptation to climate change, including laws and institutions, at national, subregional and regional levels;

(c) Analyse on a continuing basis linkages between climate change and other relevant areas of law relating to energy, biodiversity, soil, desertification and drought, forests, human rights, food security, wastes and ozone-depleting substances, pesticides and other chemicals, to assist States in ensuring the complementarity of those areas, particularly in the national frameworks;

(d) Assist Governments, 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 under the United Nations Framework Convention on Climate Change, addressing legal barriers and constraints to mitigation and adaptation technologies;

(f) Explore effective legal approaches to providing appropriate assistance to people, in particular vulnerable groups, affected by climate-related events, including environmental emergencies and natural disasters.

#### B. Poverty

**Objective:** To alleviate the environmental conditions that contribute to poverty, considering among others equitable supply and sharing of environmental services to reduce poverty, and, to that end, to ensure that environmental law and its enforcement contribute 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 reduction and protection of 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, inadequate water quality and quantity, lack of access to safe drinking water and sanitation, and desertification and drought;
- (b) 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;
- (c) In cooperation with States and relevant organizations, analyse and compile the legal measures taken to ensure that environmental conditions promote the health, nutrition and general well-being of those living in poverty;
- (d) Analyse and compile, 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 so-called "exportation of pollution" to poor countries and poor areas within countries;
- (e) 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;
- (f) Work toward evaluating the legal requirements for and potential 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;
- (g) Encourage the study of 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) Explore means of implementing key multilateral environmental agreements that meet the obligations of the agreements while also contributing to poverty alleviation and strengthening the role of women, indigenous people and other disadvantaged and marginalized groups of society;
- (i) Promote awareness among national environmental policymakers, other stakeholders, and enforcement officers of the Millennium Development Goals of their responsibilities and of the advantages of implementing international environmental law, in particular in the context of 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 and criteria to facilitate access to drinking water and adequate sanitation, as well as the efficient management of water resources.

**Strategy:** Examine, in coordination with relevant international organizations and Governments, legal approaches to access to drinking water and adequate 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, where appropriate, with relevant international bodies and institutions developing effective legal approaches relating to access to drinking water and sanitation in accordance with international law and taking into account the permanent sovereignty of States over their natural resources;

- (c) Encourage the development and dissemination of national, subregional and regional policies and laws to promote access to drinking water and sanitation;
- (d) Encourage and harmonize international cooperation in the development and implementation of legal instruments in ensuring access to drinking water, particularly in countries affected by the problem of drought or lack of water;
- (e) Assess and share legal experiences of States with regard to freshwater supply, waste water treatment, disposal of waste water and sanitation, and to the efficient management of water resources.

## D. Ecosystem conservation and protection

**Objective:** To promote and improve the conservation and management of ecosystems in a holistic manner in coordination with relevant organizations.

**Strategy:** Compile and assess current international instruments and national laws on ecosystem conservation and management, where appropriate, as well as on relevant laws on payments for ecosystem services, to promote the effective implementation of existing instruments and laws, and to assist in developing new national and international instruments when requested.

**Action:**

- (a) Study and promote, as appropriate, legal measures such as land-use planning and assist developing countries and countries with economies in transition in the creation of protected areas for the conservation, integrated management and sustainable use of ecosystems, and payments for ecosystem services, as well as challenges to ecosystem protection;
- (b) Analyse existing transboundary instruments, such as regional seas, transboundary watercourses, watersheds and wetlands, and mountain ecosystems agreements, with a view to exploring the possibility of further developing international instruments for the conservation, management and sustainable use of ecosystems, as well as national laws on ecosystem protection;
- (c) Collect and analyse legal measures directed at the restoration of degraded ecosystems;
- (d) Cooperate with Governments, intergovernmental organizations and civil society to achieve the objective set out above;
- (e) Collect, study and disseminate information on best practices and success stories on the conservation and management of ecosystems.

## E. Environmental emergencies and natural disasters

**Objective:** To strengthen the ability of the international community to prevent, control the effects of, and respond effectively to environmental emergencies arising from human-caused and natural disasters.

**Strategy:** Develop legal frameworks aimed at responding to and mitigating environmental emergencies arising from human-caused and natural disasters.

**Action:**

- (a) In close cooperation with Governments, international organizations and civil society, develop and promote policies, strategies, laws and institutions to prevent and control the effects of human-caused disasters;
- (b) In close cooperation with Governments, public organizations and civil society, develop and promote laws and institutions to respond effectively to human-caused and natural disasters;
- (c) Promote the development and operation of compatible and efficient international cooperative mechanisms for disaster control and preparedness, including early warning systems for environmental emergencies recognizing local capacities and regional experiences;
- (d) Analyse the feasibility of developing legal frameworks for international cooperation, in particular at the regional level, to tackle the consequences of and to mount responses to human-caused and natural disasters and to provide mutual assistance;

(e) Contribute, as needed, to the further study, in cooperation with relevant organizations, on 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.

## F. Pollution prevention and control

**Objective:** To prevent, reduce and control environmental pollution from all sources that could affect the environment and human health, taking into account the challenges presented by development.

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

**Action:**

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

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

(c) Develop and promote, upon request, national laws and practices effectively to address and avoid transboundary air and water pollution;

(d) Promote and support the effective and coherent implementation of international environmental regimes relating to chemicals and wastes, including by supporting implementation of the decisions of the conferences of the parties to conventions in these issues;

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

(f) Study, in consultation with Governments and relevant convention bodies, the feasibility of a framework convention in the field of chemicals;

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

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

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

(j) Support the effective development of national laws and policies that encourage integrated pollution prevention and control, waste minimization, the 3Rs (reduce, reuse, recycle) 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) Assist countries in the development of laws and policies that support environmentally sound planning and environmental impact assessment in the national context;

(l) Develop, in collaboration with relevant international organizations, guidelines and other instruments to improve the management of wastes and related challenges;

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

(n) Conduct studies on particular issues and challenges associated with environmental impact assessments and the further development of strategic environmental assessment of policies, plans, programmes and legislation;



- (o) Assist States in the development and implementation of national policies and laws containing provisions on the transfer of clean and environmentally sound technologies for the prevention, reduction and control of pollution.

## G. New technologies

**Objective:** To promote the environmentally sound and sustainable development and application of new technologies.

**Strategy:** Conduct studies of the regulation of new technologies and support the 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 and exchange information about the potential environmental impact of new technologies and conduct studies of environmental regulations of new technologies, including genetic modification and other areas of biotechnology and nanotechnology and new aspects of power generation, taking into account precaution;
- (b) Explore the need for national and international 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 the utility of rights-based approaches to environmental issues.

**Strategy:** Collect information about the extent to which national laws, international law and decisions of relevant international bodies, adopt and use rights-based approaches to environmental protection and how international human rights instruments and bodies address environment-related issues.

**Actions:**

- (a) Compile, analyse and disseminate national constitutional provisions, laws and jurisprudence related to human rights and the environment ;
- (b) Compile, analyse and disseminate the provisions of international human rights instruments related to the environment;
- (c) Compile, analyse and disseminate the jurisprudence of global and regional human rights bodies related to the environment;
- (d) Cooperate with Governments, international organizations, civil society and other stakeholders interested in issues related to human rights and environment to facilitate educational programmes in relation to human rights and the environment.

### B. Trade and the environment

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

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

**Action:**

- (a) Identify and promote, through collaboration between Governments, relevant organizations and civil society, where appropriate, 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, taking into account social and economic conditions of developing countries;
- (c) Encourage the conduct of studies to identify means of promoting optimal coherence between obligations under environmental and trade-related international agreements;
- (d) Explore the feasibility of promoting and facilitating 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 discussion on the relationship between trade disciplines and environmental concerns and information, as well as transparency and public participation within the appropriate forums in ways that ensure the full and effective consideration of relevant environmental concerns and information;
- (f) Assist, where appropriate, in developing the methodology for, and promote the implementation of, strategic environmental assessments of investment and trade liberalization policies, particularly through capacity-building in developing countries and countries with economies in transition;
- (g) Collaborate with private and public financial institutions, including export credit agencies, in the further development of guidelines and standards on environmental impact assessment, public participation and environmental protection, for investments in developing countries.

### C. Environment and security

**Objective:** To consider and explore the linkages between environmental legislation and security.

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

**Action:**

- (a) Study further the relationship between environmental protection and security issues;
- (b) Conduct studies on the concept of security and the environment.

### D. Environment and military activities

**Objective:** To reduce or mitigate the potentially 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 in developing and promoting compliance with environmental protection norms, standards and procedures relating to military activities so as to avoid and mitigate environmental damage.

**Action:**

- (a) Encourage States to include in their national legislation principles of environmental protection as regards military activities in order to ensure the protection of the environment, taking into account the sovereign right of States over their natural resources;
- (b) Survey, with the cooperation of States, the application of environmental norms, standards and procedures to military activities;
- (c) 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;

- (d) Support States in undertaking the assessment and development of norms, standards and procedures regarding 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) Collaboration with the United Nations Educational, Scientific and Cultural Organization and other international organizations for the protection of certain designated areas of natural and cultural heritage in times of armed conflict;
- (e) Support States in developing 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;
- (f) 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;
- (g) Undertake actions to enhance legal and institutional capacity to prevent and reduce environmental damage from military activities by developing opportunities for training civil and military staff in military establishments in the application of the legal norms of environmental protection.

## Annex II

### Recommendation

The experts recommend to the Governing Council that at its twenty-fifth session it consider the adoption of a decision along the following lines:

*The Governing Council,*

*Recalling* its decision 21/23 of 9 February 2001,

*Recalling* the mandate of the United Nations Environment Programme in the field of the environment as reflected in Agenda 21, the Nairobi Declaration, the Malmö Ministerial Declaration, the Programme for the Further Implementation of Agenda 21 adopted by the General Assembly at its nineteenth special session in resolution S-19/2 and its decision SS.VII/1 on international environmental governance;

*Having considered* the outcome of the meeting of senior government officials expert in environmental law to prepare a fourth Programme for the Development and Periodic Review of Environmental Law, held in Nairobi from 29 September to 3 October 2008;

*Adopts* the fourth Programme for the Development and Periodic Review of Environmental Law, as set out in annex I to the report of the meeting of senior government officials expert in environmental law to prepare a Fourth Programme of Work for the Development and Periodic Review of Environmental Law (UNEP/Env.Law/MTV4/IG/2/2), as the broad strategy for the activities of the United Nations Environment Programme in the field of environmental law for the decade commencing in 2010;

*Requests* the Executive Director to implement the Programme, within available resources, through the programmes of work of the United Nations Environment Programme and in close collaboration with States, conferences of the Parties and secretariats of multilateral environmental agreements, other international organizations, non-State actors and persons;

*Decides* to review the implementation of the Programme not later than at its regular session in 2015.