



SUMMARY OF THE MEETING OF SENIOR GOVERNMENT OFFICIALS EXPERT IN ENVIRONMENTAL LAW ON THE MIDTERM REVIEW OF THE MONTEVIDEO PROGRAMME IV: 7–11 SEPTEMBER 2015

The Meeting of Senior Government Officials Expert in Environmental Law on the Midterm Review of the fourth Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme IV Midterm Review) took place from 7-11 September 2015 in Montevideo, Uruguay. Over 100 delegates attended the meeting, including legal experts and from governments, non-governmental organizations, intergovernmental organizations (IGOs) and UN agencies.

The UN Environment Programme (UNEP) has undertaken the midterm review of Montevideo Programme IV, which: assessed progress and challenges in implementation of the Programme; assessed shortcomings, gaps and expected future developments; and refined, as appropriate, the focus of the further development and implementation of environmental law in light of new developments and emerging trends.

It was carried out through a consultative and participatory process, including through the distribution of a questionnaire followed by Montevideo Programme law seminars held in June and July 2015, and an eminent legal expert meeting held in July 2015, which drafted an initial list of priority areas for action and emerging issues that were considered at this meeting.

The meeting considered three topics – the preliminary report of the midterm review, emerging issues, and priority areas for action. These led to a set of recommendations being approved by delegates at the meeting. These recommendations will be forwarded to the second UN Environment Assembly (UNEA) in 2016 for further consideration.

BRIEF HISTORY

Since 1982, UNEP’s environmental law activities have been organized and coordinated through a series of 10-year programmes, adopted by the then UNEP Governing Council (GC). These programmes, known as the Montevideo Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme), were established for the development and periodic review of environmental law.

The Montevideo Programme has guided the efforts of the international community in developing environmental law that transforms science-based policies into action-oriented rules and standards of conduct. Additionally, a number of multilateral

environmental agreements (MEAs) have been conceived under the Montevideo Programme, and negotiated under the auspices of UNEP.

MONTEVIDEO PROGRAMME I

Montevideo Programme I was adopted by the UNEP GC in 1982. It was adopted as a strategic guidance plan in fulfillment of UNEP’s mandate to undertake activities regarding the conclusion of international agreements and the development of international principles, guidelines and standards.

It was divided into five parts: subject areas, objectives and strategies; elements of strategy; methods of implementation, review and follow-up; general development of environmental law; and specific recommendations for initial action. Major subject areas included: marine pollution from land-based surfaces; protection of the stratospheric ozone layer; and, transport, handling and disposal of toxic and dangerous wastes. Other subject areas included international cooperation in environmental emergencies, coastal zone management, and soil conservation.

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MONTEVIDEO PROGRAMME II

Montevideo Programme II was adopted by the UNEP GC in 1993. It was based largely on the requirements outlined in Agenda 21, which was adopted at the UN Conference on Environment and Development held in 1992. It was divided into 18 programme areas, which detailed their respective objectives, strategies and activities for the Programme. The areas detailed included: implementation of international legal instruments in the field of the environment; dispute avoidance and settlement; transboundary air pollution control; management of coastal areas; and, international cooperation in environmental emergencies.

MONTEVIDEO PROGRAMME III

Montevideo Programme III was adopted by the UNEP GC in 2001. It included 20 components, organized under three main themes: effectiveness of environmental law; conservation and management; and relationship with other fields. Under effectiveness of environmental law, issues considered included: capacity building; harmonization and coordination; and innovative approaches to environmental law. Issues considered under conservation and management included: freshwater resources; biological diversity; and, production and consumption patterns. Issues considered under relationship with other fields included: trade; security and the environment; and, military activities and the environment.

MONTEVIDEO PROGRAMME IV

Montevideo Programme IV was adopted by the UNEP GC in February 2009, and runs from 2010-2019. It covers 27 programme areas, each consisting of an objective, strategy and a set of actions. Those programme areas are clustered into four areas: the effectiveness of environmental law, focusing on cross cutting issues that have an impact on the effectiveness of environmental law; conservation, management and sustainable use of natural resources, such as fresh and marine water, aquatic living resources, forests, biological diversity and sustainable production and consumption patterns; challenges for environmental law, such as climate change, poverty, pollution prevention and control, and new technology; and, the relationship between environmental law and other fields, including human rights, trade, security and military activities.

MEETING REPORT

Elizabeth Maruma Mrema, Director, Division of Environmental Law and Conventions (DEL/C), UNEP, welcomed delegates on Monday, 7 September. She highlighted developments in the field of environmental law since Montevideo Programme I, in particular the development and implementation of national frameworks, laws and regulations, establishment of ministries and independent environmental authorities, to mention but a few. She emphasized that unlike the first three programmes, the fourth was adopted as a broad strategy for the entire legal community – not only for UNEP – to formulate and implement environmental law in this decade.

Fernando Lugris, Permanent representative of Uruguay to UNEP, stressed that the meeting should establish a clear roadmap and point the way forward in terms of priority areas and emerging issues that need further development with respect to environmental law.

Jorge Rucks, Vice Minister and Under-Secretary, Ministry of Housing, Territorial Planning and Environment, Uruguay, highlighted the importance of international cooperation as the best way forward to protect the environment, based on the principle of equality. He committed the Government of Uruguay to advancing environmental law to protect the environment and improve people's quality of life.

ELECTION OF OFFICERS AND ORGANIZATIONAL MATTERS: Marcelo Cousillas, Director, Legal Department, Ministry of Housing, Land Planning and Environment, Uruguay, was proposed as Chair of the meeting, and elected by acclamation. Larsey Mensah, Director/Legal, Environmental Protection Agency, Ghana, was elected as rapporteur by acclamation. The agenda and organization of work were adopted without amendment.

MIDTERM REVIEW OF THE IMPLEMENTATION AND EFFECTIVENESS OF MONTEVIDEO PROGRAMME IV

This agenda item was addressed from Monday, 7 September to Wednesday, 9 September. The Secretariat introduced the documents (UNEP/Env.Law/MTV4/MR/1/2, Add.1 and INF/1).

Participants then heard a briefing by independent legal experts. Dinah Shelton, George Washington University, presented activities taking place in the fields of the environment



L-R: Elizabeth Mrema, Director, DELC, UNEP; Fernando Lugris, Permanent Representative of Uruguay to UNEP; Jorge Rucks, Under-Secretary, Ministry of Housing, Territorial Planning and Environment, Uruguay; Arnold Kreilhuber, UNEP; and Masa Nagai, Deputy Director, DELC, UNEP



Dinah Shelton, George Washington University

and human rights, trade and investment, military and security respectively. She stressed the challenges of access to information, poverty alleviation, and the effect of disasters and extreme events.

Loretta Feris, University of Cape Town, spoke on the conservation and management of natural resources, including biological diversity, marine waters and fresh water. She highlighted developments in environmental law in these areas, including: the entry into force of the Nagoya Protocol on



Loretta Feris, University of Cape Town

Access and Benefit-sharing (the Nagoya Protocol) in 2014; a number of agreements and activities under the regional seas programmes; and the entry into force of the UN Watercourses Convention in 2014. Feris cited challenges regarding, *inter alia*, increasing illegal wildlife trade, ocean acidification from land-based activities, increasing water insecurity, and multiple anthropogenic pressures.

Du Qun, Wuhan University, highlighted advances achieved in the context of the review of environmental law in China, including an emphasis on private liability for environmental protection involving penalties, and a focus on public access to information, participation and access to proceedings in environmental law enforcement.

Muhammed Tawfiq Ladan, Ahmadu Bello University, emphasized the establishment of a nexus at the global level between poverty, social justice and equity, including gender



Du Qun, Wuhan University



Muhammed Tawfiq Ladan, Ahmadu Bello University

equity, and inter-generational and intra-generational equity, in environmental protection. He also stressed the need to use law as a tool to strengthen this nexus and to tackle the root causes of inequity for the sake of environmental protection and poverty reduction.

EFFECTIVENESS OF ENVIRONMENTAL LAW: Many countries outlined national developments in improving the effectiveness of environmental law. The United Arab Emirates (UAE) described legislation being developed to criminalize



Maureen Payne, Antigua and Barbuda

environmental violations and increase penalties.

Antigua and Barbuda described an environmental protection and management bill passed in March 2015, incorporating international best practices and treaty obligations, and considering policy input from the public, NGOs and civil society.

Chile described the process of negotiating a regional instrument on the rights of access to information, participation and access to justice as enshrined in Rio Principle 10 (access to information), calling for it to become a legally binding instrument. Cuba highlighted recent laws on issues linked to the environment, and a new review of national environmental law to decide policy guidelines for 2015-2020.

Morocco discussed its new framework law on environment and sustainable development, and the resulting opportunity to update sectoral laws affecting the environment, highlighting



Mfouad Zyadi, Morocco



Santiago Uribe, Colombia

a new law on coastal areas. Sudan described its updated biodiversity strategy, saying that it takes into consideration the latest available information, and work undertaken with the African Union to update information on genetic resources.

Colombia described its recent national development plan and green growth strategy, saying that environmental protection is relevant to all sectors. The Dominican Republic noted its limited national resources and various actors involved in environmental protection. She stated that extensive areas have been protected as national parks, and 15% of the country's electricity comes from hydropower.

Cameroon described itself as "Africa in miniature," rich in biodiversity but exposed to a variety of risks, and noted that environmental protection is integrated into sectoral laws in the mining, forestry and oil industries.

Cameroon, Togo, and Haiti called for capacity building for their respective judiciaries to ensure full awareness of laws and standards. Togo outlined further difficulties in environmental law enforcement, including that of information dissemination to the public. Mali said that their environmental laws carry sanctions and penalties for non-compliance, but lamented that environmental laws at both national and international levels are sometimes seen as "soft laws."



Jean Kenfack, Cameroon



Sékou Kone, Mali



Nazek Al Khatib, Lebanon

Lebanon outlined the challenge of awareness raising, particularly with regard to making the public aware of their rights concerning environmental protection. Iraq described progress in developing laws for environmental protection, including a 2009 law addressing air pollution.

Ecuador highlighted that its constitution recognizes the right to nature and the polluter pays principle, and said a



Marcia Alexandra Cárdenas Valladares, Ecuador

new environmental code is being drafted that addresses sanctions, penalties, and fines in cases of non-compliance.

Kenya underscored environmental protection as enshrined in its constitution and highlighted legal provisions for public participation, governance, and punitive measures for illegal wildlife trafficking.

Chad stressed that its constitution provides for environmental protection as a duty for all citizens. He also mentioned the national environmental policy, which states that environmental education is key.

Guinea highlighted an ongoing project to involve the judiciary, private sector, development partners and the public in reviewing and updating environmental codes and developing an environmental framework law.

The Philippines called for enabling policy environments to address, *inter alia*, transparency in extractive industries, the relationship between environmental law and gender, and large-scale environmental crime perpetrated by syndicates and corporations.



Analiza Rebuelta-Teh, the Philippines



Kenrick D. Gordon, Belize

Lesotho highlighted its recent accession to the Nagoya Protocol and the Minamata Convention on Mercury, but noted challenges related to implementation and enforcement, calling for more assistance for judges and law enforcement. Belize described challenges faced, including poaching and illicit



Emanuel Giorgio, Eritrea

trade, and expressed interest in training on environmental decision-making.

Eritrea noted it is party to several MEAs and said the country is moving toward a more holistic approach to environmental protection. Uruguay outlined constitutional reforms, which have enshrined the protection of the environment as a right for all people, and the right

for access to clean drinking water.

The US noted changes in national environmental legislation, emphasizing a marked decline in greenhouse gas emissions through implementing stringent fuel efficiency standards. Iran noted its 25 protected areas and wildlife refuges, which have strict protection measures in place.

Benin underscored that challenges include training of magistrates and adapting international environmental law into national legislation. Argentina highlighted a national fund for the protection of native forests, which is equivalent to 2% of tax revenues from agriculture, livestock and forestry.

Samoa highlighted legislation adopted on water and wastes, and ongoing work on an environment and conservation bill. She emphasized the importance of: allowing judges to take part in environmental conferences so they apply environmental principles; and, building capacity and public awareness.



Sala Josephine Stowers-Fiu, Samoa



José Mauro de Lima O'De Almeida, Brazil

Brazil said the last five years were rich in discussions on adopting laws, including on: emissions reductions by 2020; environmental licenses; a national solid waste policy; and, a new legal framework on access and benefit-sharing.

Mexico described its experience with international agreements and processes, including trilateral cooperation on transboundary air pollution.

He noted a comprehensive law on climate change, and the elevation of the right to water to the constitutional level.

Jamaica highlighted that the right to a healthy and productive environment is now contained in its constitution. Swaziland said that the right to a clean, safe and secure environment is in its constitution. Côte

d'Ivoire described a clean and healthy environment for all as a constitutional right.

Cambodia noted challenges in implementing and enforcing existing environmental laws and regulations, and integrating MEAs into national law, due to fragmented jurisdiction between ministries and agencies. He also stated that the Ministry of Environment is leading a comprehensive review of environmental laws and their implementation, with the goal of balancing conservation and economic development.

Turkey highlighted its participation in a technical project for capacity-building on the EU Environmental Liability Directive.

Nicaragua described progress made in legislation, including constitutional reforms and environmental laws. She highlighted results including improved community-based management of protected areas.

Timor-Leste described progress on environmental law since its independence in 2002, with financial assistance from the Global Environment Facility (GEF) and UNEP, noting that a biodiversity law is awaiting approval, and a national reporting system is being established.

Lao PDR reported on establishing a new environmental protection law in 2012 and a Ministry of Natural Resources and the Environment, with a stated goal to make the country “green, clean, beautiful and free.” He noted the need for integrated



Sallyane Cotter, Saint Lucia

planning and zoning, strategic assessments, and funding for technical support.

Saint Lucia said more progress is needed in environmental law, particularly in implementation. She said challenges included a lack of: capacity; succession plans; environmental law experience among judges; and, political will.

The UN Division for Ocean Affairs and the Law of the Sea (UN-DOALOS) described activities under the UN Convention



Michael Shewchuk, UN-DOALOS

on the Law of the Sea (UNCLOS), including the process for adopting a new legally binding instrument on the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction (ABNJ).

The Ozone Secretariat highlighted the success of the Montreal protocol in phasing out the use of various ozone depleting substances, and ongoing

discussions on a hydrofluorocarbon phase-down. He described aspects underpinning some of the Montreal Protocol’s successes, including the principle of common but differentiated responsibilities, sound science, and respecting states’ sovereignty.

The UN Framework Convention on Climate Change Secretariat said several country ratifications are still needed for the Doha Amendment to the Kyoto Protocol to enter into force. He explained that parties are currently negotiating a new protocol, legal instrument or an agreed outcome with legal force under the Convention applicable to all parties, to be adopted at COP 21 to be held in Paris in late 2015.



L-R: Dan Bondi Ogolla, UNFCCC Secretariat, and Elizabeth Mrema, Director, DELC, UNEP



Carlos Michelen, Dominican Republic

CONSERVATION, MANAGEMENT AND SUSTAINABLE USE OF NATURAL RESOURCES: The Dominican Republic discussed the success of ecotourism programmes centered on humpback whales, but noted concern over some developed countries’ hunting of whales in international waters.

The UK noted continued work by the EU on environmental protection, including the adoption of the 7th Environment



Jolyon Thomson, UK

Action Programme, as well as an act by its own Parliament imposing strict rules on deep seabed mineral resource exploration and exploitation, to protect the surrounding marine environment.

Sudan discussed efforts to protect marine life in the Red Sea, and work on combating desertification and implementing the Nagoya Protocol. Highlighting GEF support for biodiversity protection, he urged support for efforts to sustain natural resources.

Cuba described actions taken in the past five years, including developing an assessment methodology for natural damage due to disasters, incorporating the environmental dimension into legislation, expanding its protected areas system, developing protected-species regulations, and taxing activities with environmental impacts.



Teresa Dolores Cruz Sardiñas, Cuba

Argentina noted activities in the oceans, including those on ABNJ, are governed by UNCLOS and RFMOs, and expressed concern over limited membership, inability to adopt regulations vis-à-vis non-members, and limited areas of competence. Benin reported on a 10-million-tree protected forest area and stated that a coastal management law is under development.



Fortunée Dossou Worou, Benin

CHALLENGES FOR ENVIRONMENTAL LAW: The Dominican Republic highlighted challenges posed by climate change to Small Island Developing States (SIDS), noting that changes to longstanding rainfall patterns have resulted in harvest losses of coffee and rice.

Morocco described its coastal law, which requires any modification of the coast to take climate change into account. Antigua and Barbuda said it is cognizant of the impact of climate change and is working with others to implement projects to address climate change effects.

Togo noted climate change adaptation efforts, including mainstreaming climate change into a number of programmes based in the ministry of agriculture. Mali outlined steps taken to address climate change, including: signing and ratifying the UNFCCC and Kyoto Protocol; developing a national strategy in this regard; and, establishing a national committee for climate change. He highlighted the challenge of poverty for effectively implementing environmental law. Colombia noted its formal submission of its Intended Nationally Determined Contributions (INDCs) to the UNFCCC. Cameroon, with Antigua and Barbuda, stated that they are in the process of preparing their INDCs.

Mexico described a number of initiatives that can be taken advantage of, such as payment for environmental services and indirect regulations, to ensure environmental conservation becomes economically feasible. Palestine highlighted the challenges posed by poverty, lack of public awareness and country occupation, for implementing environmental law.

Nepal mentioned: the constitutional right to live in a clean environment; national policies to maintain a clean environment and to protect wildlife and habitat; and national laws on environmental degradation, national parks and wildlife, water,



Raj Bhesh Sharma, Nepal



Ayele Hegena Anabo, Ethiopia

and electricity. He also noted access to drinking water and sanitation in the context of environmental emergencies and disasters as a main challenge.

Ecuador described its legal provisions and strategies in the areas of, *inter alia*, climate change and climate change mitigation, the right to nature, poverty eradication, environmental sustainability, sustainable use of national heritage, and biodiversity preservation. He also mentioned mechanisms and standards for carbon neutrality in industry.

Ethiopia described climate change as both a challenge and an opportunity to involve local populations in ecosystem and water conservation management, through mechanisms for climate resilience such as greening economic development and participatory approaches.

The CBD Secretariat noted the adoption of both the Nagoya Protocol and the Nagoya-Kuala Lumpur Supplementary Protocol to the Cartagena Protocol on Liability and Redress as developments in environmental law since 2010. He said that both of these protocols addressed gaps present in national and international environmental laws.

Sudan cited climate change and poverty as the most pressing challenges. He said that while national laws and programmes had been updated to address these, assistance, including through technology transfer, is still required.

Togo lamented that ministries of environment are often the least well-provided for in national budgets, underscoring that the environment is natural capital and its conservation and sustainable use is critical for addressing issues such as poverty.

Cameroon discussed the challenges of climate change, biodiversity conservation, poaching, and wildlife trafficking. He highlighted a number of projects to address these challenges, including formulating legislation on plastics, and working with the EU on forest law enforcement.



Pagnibam Toï Meba, Togo



Picon Bibolini, Peru

Peru and Colombia highlighted the issue of illegal mining, with Peru stating legislation had been developed, with regulatory measures, sanctions and taxes in place to bolster this legislation.

Highlighting climate change as a main challenge, and adaptation and vulnerability reduction as primary goals, Costa



Carla Cristina Murillo-Solano, Costa Rica

Rica described plans and strategies being implemented, involving various sectors such as hydroelectricity, agriculture, water, and wastes, and including a strategy to be carbon neutral by 2021.

Mali focused on its strategy for financial resource mobilization from both the national and international sources. He emphasized ensuring participation of all stakeholders through awareness

raising and involvement in decision-making.

Morocco emphasized that despite of commitments to protect the environment, the effectiveness and applicability of law are the main challenges. He noted the creation of financial mechanisms, such as a sustainable environment development fund, which is funded from existing programmes and environmental taxes, including an eco-tax on plastics.



Thomas Barankitse, Burundi

Burundi described its environmental laws and codes including on forestry, mining and pollution, and its active involvement in various regional and sub-regional initiatives, including the Central African Forests Commission.

Guinea-Bissau summarized institutional progress in environmental law, including establishing a legal office, constant advocacy work, and setting up structures to manage

protected areas. She urged further collaboration with countries and IGOs for future progress in these areas to be achieved.

The Environmental Management and Law Association (EMLA) raised concerns on public participation in the environmental law process, stating that over the last few years, public participation at the national level has generally been



Marcos A. Orellana, CIEL

scaled back in order for laws to be adopted within a shorter time frame. Antigua and Barbuda stressed the importance of public participation, noting their support for local communities in this regard.

The Center for International Environmental Law (CIEL) shared a number of concerns with regard to the environment and human health, including access to environmental information and public participation. He underscored the importance of the development of a regional instrument in South America on the right to environmental information, as a way to redress this.

Benin noted the establishment of a national fund on the environment, which now also addresses climate change.

The Environmental Law Institute (ELI) cited challenges including environmental conflict. He noted that there is a growing interest in the environmental aspects of peacebuilding and associated laws.

Colombia commented on national laws regulating and controlling mercury use in industrial activities, noting that law enforcement authorities are empowered with tools to implement them. Ghana highlighted widespread corruption and the use of unsustainable techniques associated with “so-called” small-scale mining.

Emphasizing climate change as a major challenge for economic and social development, Côte d’Ivoire stressed legal work in areas including disaster risk reduction, greenhouse gas emissions reduction, coastal management, and sanitation. Belize highlighted its legal provisions in the area of, *inter alia*, fisheries, solid waste, air pollution, and the challenge of seaweed invasion.

Chad described its national strategy to fight climate change, including an adaptation strategy. The Conserve Africa Foundation reported on a capacity building programme on environmental law for African civil society, and in the creation of networks throughout the continent to share results related to problems faced by African countries. He highlighted challenges, including increasing civil society and Indigenous Peoples’ participation in developing and implementing environmental law, and disseminating the information.

RELATIONSHIPS WITH OTHER FIELDS: Cuba noted the need to examine progress and activities under the World Intellectual Property Organization, and adaptation of intellectual property laws to implement the Nagoya Protocol. She highlighted that trends toward unified standards and certifications create challenges for developing countries due to certification costs.



Daniel Magraw, Johns Hopkins University

The Philippines stressed the duty of states to not cause harm, and to ensure their activities do not damage the environment in other countries or in areas beyond national jurisdiction. Noting the challenges of creating new treaties or customary law, she called for strengthening institutional structures within the UN to evaluate and monitor environmental law.

Muhammed Tawfiq Ladan, Ahmadu Bello University, noted that particularly in Africa, civil society may not be able to coordinate on a continental level, and encouraged participants to consider civil society participation on a country-by-country basis.

Daniel Magraw, Johns Hopkins University, discussed relationships between environmental law and human rights, economic activity and agriculture, citing the respective examples of the use of environmental impact assessments (EIAs) whenever environmental harm might affect human rights, work towards transparency in arbitration under bilateral investment treaties, and concerns over genetic engineering in agriculture. He highlighted the opportunity for UNEP to analyze the sort of changes, adaptations or strengthening of environmental law that can help achieve the Sustainable Development Goals (SDGs).

Dinah Shelton, George Washington University, highlighted links between public health and the environment, the growing risk of epidemics or pandemics linked to environmental harm, and the importance of extradition treaties being applicable to environmental crimes involving trans-boundary criminal cooperation.

Chile noted that in the 2013 “Lima Vision,” Latin American and Caribbean countries agreed that exercising the right to access, participation and justice with respect to environment



Constance Agnes Nalegach, Chile



Narciso Enrique Manzanares Rojas, Honduras

deepens and strengthens democracy, leading to better protection of the environment and human rights. She added that the work of the Montevideo Program IV midterm review would strengthen the countries’ regional agreement, which is to be finalized in 2016.

Mexico said that since free trade agreements can have strict requirements for the protection of the environment, they may therefore present meaningful opportunities to standardize different economies in terms of environmental protection, but also risk of infringing on the multilateral system with regard to dispute resolution.

Honduras said that if most states have environmental regulations and legislation, their weaknesses lie in penalties that are not strong enough compared to the often extreme environmental damages caused.

The Dominican Republic highlighted the high impact of climate change on SIDS, and investments needed to maintain irrigation networks. Mali supported the importance of the relationship between environmental law and human rights, but stressed the link between health and the environment.

Ghana described its environmental performance rating and public disclosure programme, called AKOBEN, for the mining and manufacturing industries.

Uganda said that in some cases, habitat restoration can create human rights issues if there are human settlements that need to be relocated. Togo noted steps taken to comply with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), lamenting that customs officials may not be fully aware of the relevant laws and regulations, and may incorrectly release goods as a result.

Ecuador said that environmental law and human rights have been enshrined in the national constitution. He noted next steps, including achieving equitable, sustainable use of natural resources.

The UNFCCC Secretariat noted that since the Cancun Agreement, language on the “human dimension” of climate change has evolved to address human rights more specifically.

CIEL discussed the proliferation of environmental safeguard policies by financial institutions, and their impact on environmental issues, asking what UNEP’s role might be in harmonizing standards for safeguards.



Larsey Mensah, Ghana



Yasir Ahmed Salih Khairy, Sudan

Sudan discussed linkages between environmental law and human rights under its constitution and laws, noting that it has asked experts to develop an integrated approach on environmental protection for its forthcoming constitution, including linkages to human rights and other principles.

Muhammed Tawfiq Ladan, Ahmadu Bello University, highlighted the use of the polluter pays principle in India, South Africa and Latin America.

The UK noted that environment and trade should be mutually supportive, with trade agreements requiring parties to meet their environmental obligations. Cuba highlighted the



Alejandro Iza, IUCN

importance of access to funds for implementing environmental law, lamenting that conditions are often imposed by donors.

The International Union for the Conservation of Nature (IUCN) described its work in the areas of legal advice, information and knowledge sharing, and capacity building on environmental law at all levels. He also highlighted the importance of legal literacy that goes beyond raising awareness, and also involves a legal culture and engages with the law.

Benin referred to the importance of strengthening border controls to ensure that environmental laws and conventions are actively implemented.

EMLA described the competing uses of the Danube River, noting that cooperation is required including on energy production, transport, waste management, tourism, and agriculture, in order to provide both good drinking water, and environmental protection.



Fülöp Sándor, EMLA



Imad Obaid Jasim Albo Radhi, Iraq

Muhammed Tawfiq Ladan, Ahmadu Bello University, proposed establishing a database of national legal officers so that UNEP can promote capacity-building, networking, and training of new legal officers. He also suggested that member states develop regulatory frameworks on electronic wastes.

Daniel Magraw, Johns Hopkins University, noted that reports on human rights and the environment by Independent Expert and UN Special Rapporteur on Human Rights and the Environment, John Knox, are a good match to action items under Montevideo Programme IV.

Iraq noted that although many environmental laws are passed, and there is significant cooperation from the judiciary, assessment of awards or compensation requires support from institutions with relevant experience.

Morocco stressed the importance of capacity-building in environmental law at the level of local law enforcement and the judiciary, recounting the establishment of a special unit to handle environmental citations as a first step toward establishing environmental courts. He added that when laws are drafted, budget resources must be earmarked for their implementation and enforcement.

The US highlighted that laws must provide guidance and direction to individual actors to coordinate behavior, to achieve the goals of the laws, and encouraged UNEP to produce compilations of model laws and frameworks, and develop a programme to provide legal and technical assistance.



Timothy R. Epp, US

Chair Cousillas summarized discussions, posing questions to the plenary for their further consideration, including: what legal and jurisdictional conflicts may arise as a result of the relationship between the environment and human rights; why is it difficult to raise awareness on environmental laws and principles within judiciaries; should the scope of liabilities with respect to environmental crimes be expanded to ensure inclusion of, *inter alia*, civil, administrative and criminal liabilities; are penalties and sanctions the only way to ensure environmental compliance; and, are the instruments needed to address climate change available in current environmental laws or should there be separate climate change laws?

Lebanon highlighted that environmental law is not a priority, and suggested stressing the linkages with human rights, as judges are guarantors of human rights, and that this may incentivize them to act on the environment.



Daniel Jeudy, Haiti

Haiti stressed the need to take advantage of training and experience sharing in environmental law. Cameroon emphasized that focusing on the link between human rights and the environment should not lead to environmental law being subsumed or assimilated into human rights; and, the importance of independent judiciaries. Honduras said lawyers and scholars have different standards for ordinary crimes and environmental damages, suggesting that “it is in their DNA” due to having been trained in administrative and civil law, not environmental law.

Muhammed Tawfiq Ladan, Ahmadu Bello University, highlighted: the importance of the work of John Knox, UN Special Rapporteur on Human Rights and the Environment, and the Human Rights Commission, in collaboration with UNEP, to establish a nexus between human rights and the environment; and, UNEP’s work in training judges in environmental law, and compiling and sharing case law and best practices. He noted that work is also underway to establish a nexus between climate change and human rights.

Loretta Feris, University of Cape Town, said the human rights approach could be used strategically as a framework within which environmental issues are presented and interpreted, and encouraged creative use of criminal sanctions.

Dinah Shelton, George Washington University, noted that serious environmental damage could only partly be dealt with through a human rights approach, since human rights tribunals are limited by their mandates and would only hear human rights cases that happened to involve the environment. Noting that it was governments who originally placed human rights on the environmental agenda, she highlighted that both the constitutionalization of environmental law and criminal sanctions reinforce the environment’s fundamental importance to society.

Brazil proposed that member states make a greater number of courses in environmental law a mandatory part of legal studies, interfacing the subject with technical studies to make it attractive to students and legal professionals.

Uganda highlighted as underpinning environmental rights: the precautionary principle, EIAs, the principle of preventing harm and guaranteeing the continuity of life, and the right of those affected to be heard.



Sarah Naigaga, Uganda



Nasir Mohamed Al Ali, UAE

On human rights and law interrelations, Du Qun, Wuhan University, lamented a lack of will on the part of judiciaries. She emphasized the importance of clearly stating the right to clean air and to be free from pollution in environmental laws.

Burundi proposed submitting environmental disputes to international courts or jurisdictions that would be more objective than national judges.

The UAE emphasized that environmental legislations should include penal, civilian and administrative sanctions, so that licenses can be withdrawn, and actions to rehabilitate the environment and fines can be imposed.

Highlighting that magistrates in her country aren’t equipped to cover cases of environmental protection in the context of, *inter alia*, armed conflicts, Guinea said training for magistrates and practitioners is needed to enable crimes against the environment to be brought to trial. The Philippines discussed whether environmental quality is an individual right or a collective one for communities, and questioned whether the relationship between environmental law and military activity would require choosing weapons based on environmental factors.

GUINEA
Hawa Diallo, Guinea

Lebanon noted that challenges to its legal system lay primarily in implementation, and stressed the need for citizens to know their rights, and for judges to protect the basic human rights of all citizens.

EMLA stressed the need for capacity-building from within the judiciary, stating that in some jurisdictions, outside training for judges was discouraged.

Cuba highlighted the importance of building awareness of individual actors’ responsibilities in light of constitutional responsibilities, calling for “responsible responsibility.” Guatemala said that environmental law development must go hand-in-hand with scientific development, and called for scientific developments “to be socialized” by making them more easily accessible to societies and individuals with lower incomes and resources.

Sudan noted that while environmentalists want judges to understand the environment, judges want environmentalists to understand the legal framework and legislation, and called for building capacity and awareness as a way forward. Costa Rica cautioned against excessive litigation, saying that it can create excessive work for governments due to having to comply with numerous legal decisions.

EMERGING AND IMPORTANT ISSUES IN THE FIELD OF ENVIRONMENTAL LAW, IN PARTICULAR IN THE PROGRAMME AREAS OF MONTEVIDEO PROGRAMME IV

This item was addressed on Wednesday, 9 September. The Secretariat introduced the documents (UNEP/Env.Law/MTV4/MR/1/3 and INF/2). Participants then heard a briefing by independent legal experts. Dinah Shelton, George Washington University, highlighted the issue of noise pollution and the negative effects that it has on human health and biodiversity. She urged greater public awareness and education on the dangers of noise pollution.

Loretta Feris, University of Cape Town, emphasized the importance of water security, which she said includes the question of whether there is sufficient quantity and quality of water available. She noted that as many water sources are transboundary in nature, during times of drought the chances of conflict may increase.

Muhammad Tawfiq Ladan, Ahmadu Bello University, spoke on extractive industries, lamenting that there has been little effort to implement regulatory and governance frameworks on these industries. He also suggested that the lack of transparency and accountability of companies involved in these industries are a new form of corruption.

Du Qun, Wuhan University, stressed the need for systematic EIAs that include, *inter alia*, public participation, stricter accountability, and better security evaluation, taking into account the decentralization of the administrative power and changes in project time schedule.

Highlighting that the rate of environmental changes is likely to increase, Daniel Magraw, Johns Hopkins University, said there will be a corresponding need for law adaptation and changes. He stressed the challenges of environmental governance, noting a fragmented, uncoordinated system of environmental institutions.

The UNFCCC Secretariat emphasized the importance of synergies and coordination between MEAs and instruments at all levels, and of ensuring that their implementation respects human rights obligations, including that of indigenous and local communities.

The Ozone Secretariat stressed that the adoption of international environmental agreements may pose a burden on other multilateral agreements that do not necessarily focus on the environment, and suggested either UNEP or other forums could contribute to the analysis of how the environmental law making can impact the functions and mandates of these agreements. UN-DOALOS discussed developments in ocean



Worku Damena Yifru, CBD Secretariat

affairs and the law of the sea, highlighting the first Regular Process for Global Reporting and Assessment of the State of the Marine Environment.

The CBD Secretariat described its review process, through which its Subsidiary Body on Scientific, Technical and Technological Advice identifies new and emerging issues for consideration by parties, such as synthetic biology.



Andy Raine, UNDP

The UN Development Programme (UNDP) highlighted the role of the private sector in financing sustainable development, and the need for governments to provide enabling environments, including legal and regulatory frameworks, for investment. He stressed the importance of capacity-building for implementation and enforcement.

The Organization of American States (OAS) noted that although many constitutions in the Americas include the right to a healthy environment, gaps in implementation and enforcement remain, and environmental law is not sufficiently cross-cutting.

ELI highlighted linkages between the environment and peace and security, noting that laws, institutions and capacity can help prevent environmental stresses from leading to conflict, but that environmental law must be viewed as both a technical and social issue.



Claudia S. de Windt, OAS

Germany, for the EU and its member states' experts, suggested that UNEP undertake active cooperation with other agencies where competencies with regard to emerging issues overlap, in order to avoid duplication of work. He further urged an analysis of the implications of the SDGs on environmental law at all levels.

Cameroon underscored the need to address alternate forms of energy, so that households move away from using local forest resources for energy. Noting the limitations of existing agreements to assist in comprehensively managing the use of chemicals, CIEL stated that in order to reach the "2020 goal"



L-R: Gilbert Bankobeza, Ozone Secretariat, and Sala Josephine Stowers-Fiu, Samoa



The dais during the Informal Dialogue with Independent Experts on Priorities for Action.
L-R: Du Qun, Wuhan University; Daniel Barstow Magraw, Johns Hopkins University; Chair Carl Bruch, ELI; Dinah L. Shelton, George Washington University; Muhammed Tawfiq Ladan, Ahmadu Bello University; and Loretta Feris, University of Cape Town.

for sound chemicals management regime, a framework convention could be negotiated. Eritrea noted the importance of promoting and maintaining environmental standards.

Mexico described a case of noise pollution originating from a limestone mine in the Chiapas, where local inhabitants presented their case against the Government of Mexico to the Commission for Environmental Cooperation.

Highlighting the issue of plastic wastes and packaging, Togo said that steps need to be taken at the international level and, warning that prohibition or a ban may bring social concerns for countries whose economy is partly based on this industry, he suggested work on plastic wastes' life cycle.

Morocco stated the Moroccan EIA system could be improved, including through updating the list of projects and procedures, increasing public participation, and easing access to information. He highlighted the use of strategic EIAs to orient programmes and strategies.

EMLA underscored noise pollution, including from public events, road maintenance, and car races. He also noted the impact of large lobby groups on EIAs.

Cambodia highlighted difficulties in conducting EIAs in developing countries, in terms of capacity to assess and review advanced technologies. He suggested UNEP promote: a common platform for information sharing, including on available technologies and minimum standards; and, awareness among policy makers on the necessity of EIAs.

Cuba suggested considering non-ionizing radiation from electronics as an emerging environmental issue, as well as urban resilience as it relates to ecosystem protection.

Cameroon stressed the importance of having environment ministries monitor and supervise EIAs, and called for EIAs to be in line with changes taking place in science and technology.

Mali noted dangers to the environment, population and biodiversity from the use of mercury in artisanal and small scale gold mining, and also suggested additional studies on the health risks of loud music.

Côte d'Ivoire highlighted that the issue of poor air quality, particularly in its capital Abidjan, had been raised in electoral campaigns, but said laws and rules still needed to be properly drafted to regulate the transport sector, importation of vehicles, and industrial air pollution.

The UK suggested prioritizing transboundary issues, noting the ubiquity of plastic bags. He also encouraged considering corporate social responsibility (CSR) in parallel with government efforts, and greater synergies among MEAs.

INFORMAL DIALOGUE WITH INDEPENDENT EXPERTS ON PRIORITIES FOR ACTION

This item was taken up on Wednesday evening, 9 September. Carl Bruch, ELI, moderated an informal dialogue with independent experts on priorities for action.

Initial remarks from independent legal experts identified priority areas, including five-year goals for: better education and capacity-building; more effective implementation of laws and policies; attention to the plight of populations displaced by environmental emergencies and natural disasters; vast reductions in the rate of extinction and endangerment of species; and, clean, safe air and water for all.

On a question regarding climate change, experts noted, *inter alia*, that addressing climate change is an essential element of protecting biodiversity, and that national action must be advocated for, in conjunction with international agreements. One expert supported a comment from the audience that environmental protection law is aimed at protecting the health of people, while another, supported by several participants, said it is dangerous to look only at how humans can benefit from environmental protection.

Experts also stated that: environmental issues have to be incorporated into social areas and development questions; the importance of the environment pillar as a basis for sustainable development; UNEP can assist with environmental law implementation and compliance; UNDP can help draft laws; states should prudently manage their existing resources; and, governments should act on promises.

Audience members also queried: issues that could hinder implementation of existing positive national laws, and ratification and integration of international law; sovereignty; SIDS' resource availability; and, how to explain to local communities what the purpose of the laws being implemented are.

PRIORITY AREAS FOR ACTION IN THE FIELD OF ENVIRONMENTAL LAW FOR THE PERIOD UP TO 2020, BEARING IN MIND MONTEVIDEO PROGRAMME IV

This item was addressed on Thursday and Friday, 10 and 11 September. The Secretariat introduced the document on the priority areas for action in environmental law up to 2020 (UNEP/Env.Law/MTV4/MR/1/4). Mexico, supported by Chile and the Dominican Republic, emphasized the increasing importance of corruption as the "elephant in the room" when

addressing environmental law enforcement. The Dominican Republic also stressed the importance of promoting popular participation in decision-making.

The US said the meeting should be used to set priorities on concrete, measurable actions for environmental law development that will produce improvements in human health, quality of life and environmental protection. The EU emphasized as key priority areas, *inter alia*, strengthening effective environmental law enforcement, facilitating sharing of information and best practices, linking liability and compensation regimes, and further reinforcing synergies.

Iraq highlighted the difficulty of implementing environmental law in regions dominated by terrorist groups, and called for strengthening the role of environmental protection during conflict.

Noting challenges in implementing its environmental laws, Palestine called for strengthening the principles of environmental protection under international humanitarian law, and closely linking environmental protection to human rights.

Benin, supported by Uganda, stressed the importance of preventing land and soil deterioration.

Jamaica wondered whether traction could be gained through special environmental courts, highlighting the need for precedent in evaluating costs of environmental damage.

Kenya highlighted its special courts for environment and land issues, but noted the need for more capacity-building. Côte d'Ivoire suggested highlighting environmental issues in election campaigns in order to increase environmental issues' priority.



Faith Tabu Pesa, Kenya



Mojorn Petrona Wallock, Jamaica

Argentina, with Bolivia and Cuba, expressed concern regarding reference to the green economy. Switzerland underscored that the green economy is a strategy that takes into account the increasing scarcity of resources and aims at improving both

economic performance and quality of life.

Burundi suggested including research within the priority areas for action. Cuba called for focusing on air quality standards. Chile underscored that while it is important for new information to be generated, it is also important to archive "old" information so that it is not lost.

The UNFCCC Secretariat noted that support could be provided to countries to formulate laws and policies in preparing for the yet-to-be-adopted climate change agreement coming into force in 2020. EMLA suggested focusing on extractive industries in a holistic approach, together with, *inter alia*, wastes and recycling. CIEL urged strengthening mechanisms for effective implementation, and public participation.

Colombia highlighted the potential of environmental law as a tool to achieve peace, and the need for solid institutions and clear standards. Lesotho supported developing standards on mining.

Lebanon emphasized priority areas, including: uniform procedures in the criminal and civil legislations; encouraging countries to adopt the UNEP guidelines on environmental law; defining criteria to assess environmental harm; and, addressing civil liability.

IUCN stressed, *inter alia*, capacity-building and strengthening of national institutions, and continued support for MEAs. He called for establishing a global judicial institution to promote the environmental rule of law and implementation.

The OAS noted the need to focus on the entire cycle of environmental law and strengthen the capacity of all actors, including environmental managers, judges, and legislators. She said the greatest challenge of Montevideo Programme IV is not "what," but "how."

The ELI highlighted that the linkage between environment and security is really a linkage between environment, security, and peace and suggested wording to support environmental protection both during and after conflict.

Ecuador discussed extractive industries, noting that although fines may not be effective against large companies, permit terms providing for a costly halt to their activities in the event of violations are an incentive for full compliance.

Ethiopia noted the need to review and update existing laws in light of changing circumstances, and called for UNEP and others to provide financial and technical support to developing countries, including standards, legal instruments, and other legal materials. Swaziland highlighted the importance of developing jurisprudence in environmental law and reviewing most rules on evidence.

Cuba stressed the need to include other actors, such as production cooperatives and the aged. She stressed the need for information sharing to implement Principle 10.

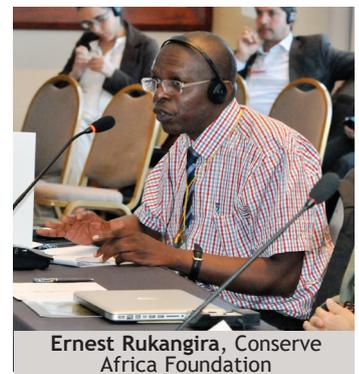
Morocco highlighted the need for creating networks for environmental law practitioners, and EIAs coupled with environmental strategies. Bolivia proposed developing strategic EIAs, taking into account each country's specific conditions.

Eritrea, supported by Panama, emphasized building on the momentum generated by the adoption of the SDGs in late September. Samoa highlighted the need to assess existing policy and the state of the environment, and noted the crucial role of scientific evidence in enforcement. She echoed calls for UNEP to compile case law examples for member states.

The Conserve Africa Foundation drew attention to the role of NGOs and other non-state actors for improving dissemination of information to local communities and legislators, and for popularizing the rule of law.



Leonardo Campaña Llive, Ecuador



Ernest Rukangira, Conserve Africa Foundation

The Interamerican Association for the Environmental Defense (AIDA) discussed the role and obligations of enterprises, and noted that along with best practices, "worst practices" and lessons learned should also be shared.



Astrid Puentes Riaño, AIDA



Marina Céline Bayeba, Côte d'Ivoire

Burundi encouraged states to provide comments to the International Court of Justice on environmental cases, to bolster its effectiveness. The UK urged caution to not disturb existing negotiations both during times of negotiation and between adoption and entry into force.

Viet Nam called for criteria to assist states in implementing laws, noting that the criteria would help assess the effectiveness of enforcement and implementation of environmental laws.

Chair Cousillas then invited parties to specifically analyze Part III of the document on priority areas for action, in more depth. The US expressed concerns on issues which are before the International Law Commission. Sudan enquired as to the legal status of the paper.

Chair Cousillas explained it was an aid prepared by the Secretariat, and did not have to be negotiated, adopted, approved or disapproved. The Secretariat concurred, saying the document was created to facilitate discussions.

PRIORITY AREAS FOR ACTION IN ENVIRONMENTAL LAW UP TO 2020: Delegates discussed the 23 proposed priority areas paragraph-by-paragraph. This discussion is summarized below.

Combat environmental offences and crime through strengthening laws to criminalize certain activities: Haiti suggested UNEP organize a session with ministries to ensure commitment to strengthening laws to criminalize certain activities. Ethiopia said that issues that are not necessarily criminal offences, but still affect natural resources, should be addressed.

The EU, opposed by Sudan, proposed including the reference to the concept of a holistic approach. Sudan stressed needing an ongoing assessment with accurate, timely and scientific information on the environment. Costa Rica requested defining the scope of “strengthening environmental law.”

The UAE said language on criminalizing “certain activities” needs to speak more specifically of activities causing environmental harm. Uganda urged for clarification on “the ingredients of a crime” so that there is a reference point for criminal damage to the environment.

Togo stressed the need to not only strengthen laws, but also to provide means to implement effectively existing laws. He also urged UNEP to meet with governments and demonstrate that it is in national interests to implement environmental law. Guatemala noted that most participants come from the executive branches of governments, and could only “encourage” legislators to strengthen laws.

Côte d'Ivoire proposed improving the normative framework through promoting ratification of international law, and then incorporating these into national legislation. Chad said that

states must review and update legal frameworks so they are tailored to and effective in current contexts, underscoring that environmental protection is essential for the survival of states.

Address the drivers of environmental offences and crime: Lebanon called for laws to identify linkages between the environment and crimes, and specify liability for harm done to nations and the environment.

Cameroon stressed the importance of financing and resources for implementing existing laws, and called upon UNEP to lobby governments to ensure sufficient budget allocations for effective implementation.

Strengthen the implementation of, compliance with, and enforcement of environmental law: The US called for prosecutors to be given a broad range of sanctions that should be applied commensurate with the nature of violations, rather than focusing solely on fines. Uruguay supported previous suggestions by Morocco and Bolivia for including a strategic EIA as part of environmental legislation. Sudan said that strengthening environmental law needs to be undertaken through strengthening international law and implementing international agreements.

The US, supported by Burundi, proposed including reference to “coordination of implementation efforts of international environmental law” at global, regional and national levels. Morocco, supported by Togo, suggested adding the concept of strengthening institutions responsible for implementing legislation. AIDA reiterated the need to share lessons learned.

Strengthen public access to justice in environmental matters: The EU suggested including text calling for facilitating information sharing between different institutions to ensure the quick and effective implementation. Togo urged focusing on UNEP’s guidelines on access to justice in assessing the role of judicial procedures. Mali asked UNEP to update compendia of national texts, along with databases of relevant cases. Cameroon urged prudence on allowing all citizens to initiate proceedings, out of concern that courts could become backlogged. Cuba suggested including reference not only to litigation, but also other dispute resolution mechanisms. Swaziland proposed strengthening public access to both justice and information.

AIDA underscored the importance of public-interest litigation, and EMLA called for attention to the quality of access, saying it should be “fair, equitable, timely and not prohibitively expensive.”

Assist states to develop more effective environmental legislation: Argentina suggested replacing the phrase “green economy” with “environmentally sustainable economy.”

The US proposed a member state-driven process to assist states in developing and adopting more effective policies and regulations, including by compiling case law and best practices. EMLA noted an opportunity to include reference to environmental indicators, and to alternative indicators of social development, in paragraphs on developing legislation, and frameworks for treaties.

Consider follow-up mechanisms to check on commitment and raise the level of ambition of international instruments in the field of the environment: Honduras suggested strengthening financial and economic support for follow-up mechanisms. Burundi suggested checking compliance with commitments. Sudan called for support for investigating and monitoring implementation of commitments.

Encourage action by non-state actors in the field of environmental protection: Sudan called for clarifying ambiguousness, while Lebanon requested adding the concept of awareness. Uganda said the idea presented is to move away from a command-and-control approach to environmental enforcement through self-regulation, where private enterprises conduct self-monitoring and self-audit and keep record of this.

Benin stressed the environment should be added to CSR, while Cameroon said that CSR is a well-known concept that includes the environment. Morocco noted that encouraging activity by the private sector might require a legal framework to regulate such activity, and raised the possibility of public-private partnerships.

The UK said CSR is worth supporting as supplemental to environmental law, and taking voluntary action above and beyond what the law requires will enhance corporations' credentials.

Sudan stressed the purpose of this process is to find agreement on the principal priorities, not to agree to a binding text or document.

To enhance water security in the face of climate change and other environmental pressures: Uruguay suggested mentioning soil protection, noting that contamination or degradation of soil negatively impacts watercourses. Ethiopia proposed strengthening measures to enhance water security, citing water-management plans in Europe and the SDGs. Côte d'Ivoire called for the protection of water quality and quantity for socioeconomic needs and ecosystem preservation. Noting the thermal dynamics of the hydrological cycle, the Dominican Republic stressed that legislation cannot guarantee access to water, and aquifers must be protected from contamination. The US suggested ensuring adequate access to water. Mexico queried if impurity-free water was possible, but said water needed to be safe for consumption. Du Qun, Wuhan University, called for making reference to the integrated management of waters in river basins.

Develop more effective means for protecting the oceans, fisheries and biodiversity in areas beyond national jurisdiction: The US suggested clarifying that the processes referenced are under the auspices of the UN General Assembly, and cautioned against interfering with negotiations taking place in other processes.

Develop a mechanism to enable undertaking by states and relevant organizations of a more holistic and coordinated approach to prevent and control pollution of global significance: The UK suggested including a reference on avoiding interference with ongoing processes and negotiations under relevant multilateral agreements.



Catherine Colombo Carnelli, Uruguay

Develop standards and procedures for extractive industries: The Dominican Republic stressed there should be an explicit reference to both land and seabed extraction. Senegal emphasized the need for focusing on the transparency of extractive industries.

Compile a list of best practices on noise pollution and propose ways of addressing the issue: The UK suggested including reference to addressing the issue at local and national levels. The Dominican Republic highlighted imposing redress for noise pollution as a milestone in his country.

Continue to emphasize the importance and further refine guidelines on EIAs: Uruguay stressed incorporating strategic EIAs into national legislation. Togo suggested rather than referring to EIAs, referring to environmental assessments, which is more comprehensive. AIDA said standards for EIAs should include impact on human rights.

Facilitate the promotion of laws encouraging renewable energy: Honduras, opposed by the Dominican Republic, suggested replacing energy extraction with energy generation, as extraction refers to a mining setting. Togo underscored that adopting renewable energy is generally not an issue of law, but an issue of resources for implementation. Belize suggested referring to laws to enable renewable energy adoption. Mali called for laws facilitating the use of renewable energy. Cameroon requested clarifying the need for tax incentives and subsidies to encourage adoption. EMLA suggested mention of sustainable communities, possibly in paragraphs on non-state actors, water security, or renewable energy.

Protect the most vulnerable, including in environmental emergencies: Togo questioned whether "the most vulnerable" meant populations, or ecosystems, and Chair Cousillas clarified that it referred to populations. The US expressed concern that this paragraph and the following one on adaptation to environmental stress might interfere with discussions in other UN processes, and proposed combining them to read "Consider appropriate responses to environmental emergencies, environmental stresses and climate change, including to protect the most vulnerable." Uganda suggested language on developing regulatory responses to environmental emergencies. Cuba noted vulnerability is a separate issue from environmental emergencies or pressure.

Enhance the response of the international law community to the environmental threats caused by the global problem of waste plastics and marine debris: The EU then proposed an additional paragraph calling for the analysis of legal gaps and needs for the benefit of global legal instruments to address the issue of plastic waste in a holistic manner, including a life-



Participants during the meeting

cycle approach. The US suggested that this include reference to global legal instruments as well as other appropriate approaches.

The Dominican Republic noted that plastic waste is a global problem, but the burden isn't shared equally. Senegal stated that plastic wastes are a problem beyond the marine environment. Cuba highlighted the 1972 London Convention and MARPOL 73/78 on marine debris from ships, but said it is "obviously inadequate," since marine debris is a primary transboundary source of contamination. Morocco said large patches of plastic debris are one of the worst forms of marine pollution. The UAE called for covering other types of harmful waste, and not just plastics. Togo asked what could be done about land-based wastes.

Use law as a tool to reduce poverty: Cuba questioned this concept, since poverty is a socioeconomic problem, not a legal one. Uganda said poverty is global, informs many negotiations, and is too broad to be treated as a single priority, but is rather a factor that must be considered in environmental impacts. Cambodia questioned if "environmental harm caused by poverty" was a contradiction. Togo said good governance could reduce poverty and improve living conditions, but that law alone could not achieve this. The Dominican Republic called for the linkages between poverty and environmental protection to be better explained. Burundi suggested a greater focus on the potential for environmental damage to induce poverty. Cameroon noted that proactive policies are needed against poverty, and when implementing policies, law comes into play, so poverty could be viewed from the angle of environmental law. Conserve Africa Foundation underscored the need to emphasize the linkages between the environment and poverty.

Promote a more coordinated and holistic approach in the field of international environmental law to address a broad cluster of global environmental issues: The UK suggested wording holistic approaches as a longer-term objective, and, with the US, expressed concern that such approaches would effectively mean rewriting the entire system of international environmental law. The US called for all countries to ban harmful levels of lead in paint by 2020. The Dominican Republic expressed concern over pollution from plastic containers used to store toxic chemicals.

Daniel Magraw, Johns Hopkins University, noted that although only four years remain in Montevideo Programme IV, the Montevideo Programme will continue, and including long-term goals or questions is appropriate.

Strengthen support to countries in developing and adopting policies, laws and regulations that prevent negative impacts on human rights or the environment: On the linkages

between human rights and the environment, Ethiopia suggested including reference to updating environmental policies, laws and regulations.

CIEL, supported by Daniel Magraw, Johns Hopkins University, and AIDA, suggested mentioning redress and reparations alongside prevention, and said listing priority high-priority topics illustrated the complexity of the relationship and helped guide the work of UNEP, the Montevideo Programme, and member states. AIDA also suggested including reference to regional fora.

Further the understanding of the linkage between environment and security, and promote further application of environmental norms to military establishments: The US expressed concerns over prejudging ongoing conversations in the International Law Commission. Haiti suggested that armed forces should be guided more with reference to natural disasters. Cameroon said armed forces should respect minimum environmental norms. Colombia stressed the need to emphasize the relationship between environmental law and peace, with environmental law being a tool for peace keeping.

Cuba and Palestine underscored that the issue is part of the Montevideo Programme text. Côte d'Ivoire stressed the need to address the relevance of preserving the environment in times of war and military crisis.

Daniel Magraw, Johns Hopkins University, highlighted that UNEP's work on freshwater and human rights has complemented, not hindered, the International Legal Commission's work in these areas. Dinah Shelton, George Washington University, agreed, noting that the International Law Commission's lawyers lack expertise in environmental law, and that studies done by UNEP would provide information valuable to them.

General discussion: Uganda, supported by the US, proposed including language on developing guidelines to help member states develop mechanisms to conserve soil, address erosion, mitigate contamination and preserve native soil quality. Peru suggested including mention of "strengthening the norms on illegal activities such as mining and felling." Loretta Feris, University of Cape Town, noted the recurrence of discussions on implementation and suggested that UNEP establishes a forum to discuss such issues, including addressing compliance and enforcement when faced with limited resources.



Murad Al-Madani, Palestine



Chair Marcelo José Cousillas, Ministry of Housing, Land Planning and Environment, Uruguay



Joanna Abrego, Panama

RECOMMENDATIONS AND CONCLUSIONS

This item was addressed on Thursday and Friday, 10 and 11 September. On Thursday afternoon, Chair Cousillas asked Brazil, Germany, Cameroon, Philippines, Uganda, Lebanon, Mexico, Switzerland and Saint Lucia to convene a small drafting group to work on conclusions and recommendations for consideration in plenary Friday. The US asked to be included, and Chair Cousillas clarified that the group was an open one. The drafting group convened immediately following the afternoon session, and met into the evening.

On Friday, Saint Lucia presented the main changes made to the text in light of the comments made by delegates the day before, noting a number of minor editorial revisions. She also highlighted the inclusion of references, *inter alia*, on: avoiding prejudice to ongoing multilateral negotiations of relevant international instruments in the introductory paragraphs; developing a holistic approach to environmental offences, in a sub-paragraph on strengthening laws to criminalize certain activities; strengthening relevant institutions and coordination at all levels in a sub-paragraph on strengthening implementation and compliance; considering existing instruments in the area in text on adopting a holistic approach to prevent and control pollution; and, analyzing the legal gaps, needs and benefits with respect to global legal instruments and approaches in a text on waste plastics and marine debris.

After a short break for delegates to consider the text, Chair Cousillas invited comments on the three introductory paragraphs of the proposed text.

The UK, supported by the US, suggested describing recommendations as being for the entire international law community and UNEP. The US suggested reference to UNEA decision 1/7 (Strengthening the role of UNEP in promoting air quality) and GC decision 27/9 (Advancing justice, governance

and law for environmental sustainability) at the end of the first paragraph, and wording in the third paragraph to clarify that the document is not a negotiated text reflecting country positions.

Uganda proposed modifying the wording and placement of the US proposal. Cuba, supported by Panama and others, suggested including mention of a holistic approach in the introductory paragraphs rather than in later subparagraphs.

On the paragraph calling for developing a holistic approach to environmental offences, Lebanon suggested mention of corruption and its links to environmental crime such as trafficking, and Cambodia proposed mention of promoting criminal penalties.

The US, supported by Kenya, suggested combining text on providing assistance to states so that a single list of modalities of assistance could be compiled. Kenya, with Uganda, further suggested that when referring to “sharing of experiences,” lessons learned be included. Ethiopia preferred mention of implementing and assisting, rather than facilitating in text on facilitating education on and public access to implementation.

The US reported that consultations with Uganda had led to compromise text on the nature of the recommendations. Brazil reiterated a proposal on mandatory environmental law classes in law schools, and urged translating the SDGs into national law, and making connections with existing standards where possible.

In text on the role of litigation, Palestine asked for the judiciary to be clearly highlighted, while Panama offered suggestions on translation into Spanish.

Switzerland expressed contentment with both the “green economy” and “environmentally sustainable economy,” but Argentina noted discomfort from Latin American delegations with the phrase “green economy,” suggesting instead a reference to language agreed at Rio+20, saying that the “green economy” was one of multiple possible paths toward sustainable development, and not a synonym for “environmentally sustainable economy.”

On follow-up mechanisms to review compliance and political commitment, Samoa noted that each convention has its own tools for implementation and reporting, asking if these were the follow-up mechanisms being considered in this paragraph, and whether new national obligations would be created. Chair Cousillas responded that only mechanisms for compliance verifications, *et cetera*, were anticipated, and not new treaties.

Burundi questioned the need to specifically reference non-binding instruments. Chair Cousillas then proposed, as a compromise, to delete “the adequate use of non-binding



L-R: José Luis Maccarone, Argentina; Elena Trigo, Switzerland; and Marcus Schroeder, Germany, discussing the draft report



Vuyile Dumisani Dlamini, Swaziland

instruments.” Cuba suggested changing the reference to “raising the level of ambition” to “raising the scope of application” of international instruments.

On enhancing water security, Palestine stressed the need to include a reference to the sovereignty of states over water. Cuba, on behalf of the Latin American Group, supported by Palestine, Burundi, Cambodia and Swaziland, requested retaining an original reference to adequate and equitable access to safe water.

On developing more effective means for the protection of oceans, fisheries and biodiversity, the US, supported by Swaziland, suggested replacing the reference to the global commons by referencing UNCLOS. Colombia opposed the proposal, arguing it would be restrictive given some member states are not party to UNCLOS.

On extractive industries, the Dominican Republic reiterated the need to include explicit reference to seabed mining. On EIA guidelines, Cuba suggested referring to non-ionizing radiation rather than wind turbines and radiation from power lines. On noise pollution, Daniel Magraw, Johns Hopkins University, suggested adding the impact on flora in addition to fauna.

On a question by Panama on the exact meaning of environmental stress, the Secretariat said it refers to harms to the environment in a generic way that can cause negative impacts and pressures beyond that which would normally occur in nature. On strengthening and supporting countries, Cambodia, supported by Kenya, Germany and Panama, suggested updating environmental policies in compliance with international legal instruments.

On environment and security, Iraq stressed that environment and security are separate concepts, while Côte d’Ivoire questioned whether the text intended to highlight the link between environment and security, or call for better understanding of it, and Cuba and Palestine noted a separate, distinct point on military activities in the Montevideo Programme. Burundi proposed promoting a stricter application of environmental law, given the link between environment, security, and peace.

On proposed text for monitoring and evaluating the Montevideo Programme, Samoa asked whether a framework exists for monitoring and evaluation of the Montevideo Programme itself. Uruguay, supported by Uganda, the US and Vietnam, expressed concern over the time between reviews, and proposed a mechanism to have a group of countries work closely with UNEP between reviews as a steering committee for the Montevideo Programme. Viet Nam suggested three elements to consider: manpower, mechanisms and money. The



Jorge Rucks, Under-Secretary, Ministry of Housing, Territorial Planning and Environment, Uruguay, addressed participants at the end of the meeting

EU expressed concern over creating new bodies or mechanisms, and called for trust in the UNEA. Uganda, opposed by the EU, suggested establishing national focal points for the reviews.

Morocco urged approving the proposed texts, saying it is necessary to have this mechanism to assess better, and consolidate and strengthen the results of the Programme.

Argentina and Switzerland highlighted that developing incentives to move towards sustainable development can be done through the use of tools such as implementing an environmentally sustainable economy, green economy or others.

Delegates agreed to include the above suggestions in the draft recommendations, with wording to be finalized by the Secretariat.

ADOPTION OF THE REPORT

On Friday afternoon, Chair Cousillas introduced the draft report of the meeting (UNEP/Env.Law/MTV4/MR/1/L.1) and an addendum on priorities (UNEP/Env.Law/MTV4/MR/1/L.1/Add.1). Several countries, experts and UN bodies proposed minor editorial corrections for clarity or accuracy, or requested confirmation that submitted text had been received and would be included. Panama highlighted Peru’s proposal of illegal mining and illegal felling as a priority for inclusion. Cuba expressed concern over omitted interventions. The draft report was then adopted.

CLOSURE OF THE MEETING

Jorge Rucks, Vice-Minister and Under-Secretary, Ministry of Housing, Territorial Planning and Environment, Uruguay, in his closing remarks, congratulated participants on their hard work,



L-R: Chair Marcelo José Cousillas, Ministry of Housing, Land Planning and Environment, Uruguay, and Masa Nagai, Deputy Director, DELC, UNEP

noting that their recommendations would now be forwarded to UNEA, and charged them with explaining the recommendations to their governments, to ensure they became reality.

Elizabeth Mrema thanked delegates, interpreters, local staff of UN bodies, and the government of Uruguay for making the meeting a success.

Chair Cousillas thanked participants, noting that since graduating from law school, he had dreamt of the Montevideo Programme returning to Montevideo, and the dream had now come true. He then added, "mission accomplished," and gavelled the meeting to a close at 6:52pm.

UPCOMING MEETINGS

UNCCD COP 12: The 12th session of the Conference of the Parties (COP 12) to the UN Convention to Combat Desertification (UNCCD) will take place over two weeks in Ankara, Turkey. As the Convention's primary decision making body, the COP will meet to discuss and make decisions regarding the Convention's implementation. **dates:** 12-23 October 2015 **location:** Ankara, Turkey **contact:** UNCCD Secretariat **phone:** +49 228 815 2800 **fax:** +49 228 815 2898/99 **e-mail:** secretariat@unccd.int **www:** <http://www.unccd.int/en/Pages/default.aspx>

27th Meeting of the Parties to the Montreal Protocol: MOP27 is scheduled to consider a number of issues, including *inter alia*: the quadrennial assessment reports of SAP, TEAP and EEAP; TEAP's report on the full range of alternatives to ODS; HFC management; nominations for critical- and essential-use exemptions; and issues related to HCFC phase-out. The MOP will be preceded by a meeting of the 36th Open-Ended Working Group, which will meet from 29-30 October 2015. **dates:** 1-5 November 2015 **location:** Dubai, UAE **contact:** Ozone Secretariat **phone:** +254-20-762-3851 **fax:** +254-20-762-0335 **email:** ozoneinfo@unep.org **www:** <http://conf.montreal-protocol.org/>

2nd Interpol Environmental Compliance and Enforcement Events: Hosted by the new INTERPOL Global Complex for Innovation (IGCI), 2015 events will include, the 2nd INTERPOL – UNEP International Environmental Compliance and Enforcement Conference, and the 2nd Meeting of the INTERPOL Environmental Compliance and Enforcement Committee (ECEC). The meetings will review progress in the field of environmental compliance and enforcement; and identify priorities and adopt joint strategies to enhance national, regional and international responses to effectively address environmental crime. **dates:** 16-18 November 2015 **location:** Singapore **contact:** INTERPOL Secretariat **e-mail:** environmentalcrime@interpol.int **www:** <http://www.interpol.int/Crime-areas/Environmental-crime/Events/Meetings/2nd-INTERPOL-Environmental-Compliance-and-Enforcement-Events>

UNFCCC COP 21: The 21st session of the Conference of the Parties to the UNFCCC will take place in November-December 2015, in Paris, France. **dates:** 30 November - 11 December 2015 **location:** Paris, France **contact:** UNFCCC Secretariat **phone:** +49-228 815-1000 **fax:** +49-228-815-1999 **e-mail:** secretariat@unfccc.int **www:** <http://www.unfccc.int>

Seventh Session of the Intergovernmental Negotiating Committee on Mercury (INC7): This is intended as the last meeting of the INC and will prepare for the first COP. **dates:** 7-11 March 2016 **location:** Jordan **contact:** Interim Secretariat **fax:** +41-22-797-34 60 **email:** mercury.chemicals@unep.org **www:** <http://www.mercuryconvention.org>

Second Meeting of the UN Environment Assembly:

The UN Environment Assembly (UNEA) will convene for the second time in 2016. The UNEA of the UN Environment Programme (UNEP) represents the highest level of governance of international environmental affairs in the UN system. **dates:** 23-27 May 2016 **location:** Nairobi, Kenya **contact:** Jiri Hlavacek **phone:** +254-20-762-1234 **e-mail:** unepinfo@unep.org **www:** <http://www.unep.org/unea/en/>

GLOSSARY

AIDA	Interamerican Association for the Environmental Defense
ABNJ	Marine Biodiversity in Areas beyond National Jurisdiction
CIEL	Center for International Environmental Law
COP	Conference of the Parties
CSR	Corporate Social Responsibility
DELC	Division of Environmental Law and Conventions
UN-DOALOS	UN Division for Ocean Affairs and the Law of the Sea
EIA	Environmental Impact Assessment
ELI	Environmental Law Institute
EMLA	Environmental Management and Law Association
GC	Governing Council
GEF	Global Environment Facility
IGOs	Intergovernmental Organizations
INDCs	Intended Nationally Determined Contributions
MEAs	Multilateral Environmental Agreements
OAS	Organization of American States
SDGs	Sustainable Development Goals
SIDS	Small Island Developing States
UAE	United Arab Emirates
UN	United Nations
UNCLOS	UN Convention on the Law of the Sea
UNDP	UN Development Programme
UNEP	UN Environment Programme
UNEA	UN Environment Assembly
UNFCCC	UN Framework Convention on Climate Change



Tango dancers entertained delegates at Monday's evening reception hosted by the Government of Uruguay