



## UNEA HIGHLIGHTS: TUESDAY, 24 JUNE 2014

On Tuesday delegates convened for the Global Symposium on the Environmental Rule of Law. The COW met throughout the day, continuing consideration of draft decisions. In the afternoon the Gender and Environment Forum convened in four parallel sessions. In the evening delegates participated at UNEA “Unplugged,” a town hall debate moderated by Kenyan TV journalist, Jeff Koinange that aimed to capture the diversity of voices on the thematic issues being addressed at UNEA. A contact group on chemicals and waste met, as well as the drafting group and the Working Party on rules of procedure.

### GLOBAL SYMPOSIUM ON THE ENVIRONMENTAL RULE OF LAW

**OPENING OF THE SESSION:** Elizabeth Mrema, UNEP, welcomed participants, noting the session provides an opportunity to discuss ways and means of strengthening environmental rule of law to ensure just and sustainable development outcomes.

In his welcoming remarks, Achim Steiner, Executive Director, UNEP, noted the symbiotic relationship between international and national environmental law. He encouraged participants to provide guidance on how environmental law can contribute to sustainable development and a green economy.

Cletus Springer, Organization of American States (OAS), stressed the importance of the rule of law to human well-being and to the attainment of social equity, justice and environmental sustainability. He said OAS works in partnership with UNEP toward building tools for effective decision making in environment and sustainable development in all stages of law.

Bakary Kante, Chairman, Africa Sustainability Centre (ASCENT), emphasized that sustainability is about preserving the environment through the most effective tool: the environmental rule of law.

Julia Marton-Lefèvre, Director-General, IUCN, cautioned that strong laws and regulations are not enough, and said they need to be implemented in an accountable, equitable and legitimate manner.

Kalpana Rawal, Deputy Chief Justice, Kenya, highlighted challenges faced by the Kenyan judiciary in fighting illegal poaching and trade in wildlife. She said these illegal activities are linked to terrorism and conflict and undermine the nation’s stability.

**PANEL DISCUSSIONS: Environmental Law from a Human Rights Perspective:** Justice Antonio Benjamin (Brazil) moderated discussions on: the foundation of environmental law and sustainability from a human rights perspective; and access to justice.

Justice Winston Anderson, Caribbean Court of Justice, highlighted the evolution of global environmental jurisprudence. He noted that over 75 constitutions recognize the right to a healthy environment and said the judiciary is increasingly prepared to derive environmental rights from traditional civil and political rights. However, he noted a reluctance to read environmental rights into traditional human rights. He reflected on whether it was time for the establishment of an international environmental court.

Lourdes Lopez, Mexico, noted that parliamentarians could play a role in: developing sound legal frameworks; translating international environmental agreements into national legislation; and enhancing the participation of citizens in decision-making.

Lalanath de Silva, World Resources Institute, highlighted the Environmental Democracy Index, the first global measurement tool on information, participation and access to justice, explaining that it is an open web platform based on international standards developed by UNEP.

Sándo Fülöp, President, Environmental Management and Law Association, Hungary, called for systematic capacity building as a procedural principle of environmental law.

During ensuing discussions, participants addressed, *inter alia*: competing natural resource interests; importance of environmental impact assessments; incorporating environmental rights in national constitutions; balancing environmental concerns against property rights; the universalization of the rights of nature; and funding for public interest lawyers.

**Access to Justice:** Justice Luc Lavrysen, President, EU Forum of Judges for the Environment, highlighted the Compliance Committee of the Aarhus Convention (access to information, public participation in decision-making and access to justice in environmental matters) for its unique Compliance Review Mechanism that can be triggered by citizens. He pointed to case law indicating that judges in various EU member states are reinterpreting national provisions on access to justice even where policy makers have not aligned legislation in line with the Aarhus Convention.

Tony Oposa, Law of Nature Foundation, the Philippines, provided examples of legal actions as levers for social and environmental change.

Justice Ousamne Batoko, Chief Justice, Benin, highlighted access to justice challenges and the need for, *inter alia*: improved information sharing; incorporation of environmental law in jurisdictions; and more training of judges on environmental matters.



In the ensuing discussions, participants addressed: the need to intensify dissemination of information on environmental rights and to build capacity of magistrates; the challenge of balancing rights and obligations in the case of nature; access to justice; and the feasibility of establishing an international environmental court or expanding mandates of existing courts.

**PANEL DISCUSSION: Enforcement as a Key Component of the Environmental Rule Of Law:** Scott Fulton, UNEP, moderated the afternoon panel session, which focused on criminal, civil and administrative enforcement as key components of the environmental rule of law. Fulton noted key ingredients of the environmental rule of law as indicated in GC decision 27/9, including: governmental enforcement, information disclosure, public participation, coordination of roles, dispute resolution, auditing and enforceable laws.

David Higgins, INTERPOL, presented his organization's journey of awareness building and learning on how to address violations of environmental law in the last six years. He stressed the increased importance of the environmental pillar in countries' national security priorities.

John Scanlon, Secretary-General, CITES, noted that prior to CITES there was no global legal instrument to regulate international trade in wildlife. He defined CITES as a collective effort which connects international commitments with national action, setting the rules of the game and defining what makes wildlife trade illegal.

Githu Muigai, Attorney General, Kenya, delivered a Kenyan perspective on the challenges of enforcing wildlife protection laws, including: the threat of international criminal gangs trading in wildlife; illegal logging of over 5000 hectares of forest per year; illicit poaching in the region, with one elephant slaughtered every 15 minutes; and the proliferation of an industry of small arms. He stressed that the solution lies in integrating the justice system chain, including the civil, criminal, administrative and regulatory mechanisms.

Walker Smith, Environmental Protection Agency, US, focused on civil-judicial and administrative actions to deter and remedy environmental law violations, concluding that without enforcement, environmental laws are only "printed words on a page."

During the ensuing discussions, questions were raised on, *inter alia*, how to address selective implementation of laws, national corruption, transboundary pollution and illegal trading, as well as the need to build capacity of government institutions and the civil society to ensure effective environmental governance.

Justice Muzammel Houssain, Bangladesh, presented on developing a coherent and responsive environmental justice system, highlighting challenges and opportunities from his country's perspective. He noted that two environmental courts had been established to address civil and criminal cases. He explained that the issue of *locus standi* (legal standing) had been resolved by the Supreme Court and it is much easier for public interest environmental cases to be brought before the court.

Justice Harold Reginald Nsekela, President, East African Court of Justice, presented on environmental enforcement from a regional perspective, highlighting jurisprudence from the regional court. He noted that the court had no enforcement mechanism and enforcement is contingent on the political will of member countries.

Silvia Cappelli, President, Latin American Network of Environmental Public Prosecutors, explained that the informal network was established in 1992 and consists of 16 countries from the region. She noted that through the network, over 1000 people had been trained, five international congresses had convened and four compendia were published.

Francis Alieu Munu, Inspector-General Police, Sierra Leone, discussed successful approaches to environmental law enforcement and societal impacts. Emphasizing a rights-based approach, he said the focus had been on widening the multi-sectoral environmental framework and the establishment of an anti-corruption commission.

**PRESENTATION OF KEY FINDINGS AND WRAP-UP:** Achim Steiner, Executive Director, UNEP, moderated the session, noting the Secretariat will compile a synthesis of discussions. Justice Benjamin emphasized the need for strong institutions to implement the rule of law internationally and domestically. He stressed key conclusions, including: environmental rule of law has to be based on the concept of human rights; institutions need to be "married" to accountability and transparency; and human and financial capacity are essential.

Anderson underlined the challenge posed by transboundary issues. Justice Philip Waki, Kenya, stressed the importance of the right to information, public participation and monitoring and evaluation. Fulton concluded that the knowledge base to deal with environmental challenges exists within the world community.

Mrema observed that the symposium highlighted a commitment to continuing discussion and the outstanding work on environmental rule of law implementation and enforcement.

Steiner thanked participants for their contributions and assured everyone of UNEP's deep commitment to continuing work on the environmental rule of law.

#### **COMMITTEE OF THE WHOLE**

**CONTACT GROUPS:** Chair Lugris invited the chairs of contact groups to report on their progress. Chemicals and waste contact group Chair Alf Wills (South Africa) said the group had embarked on a first reading of the text and agreed to focus on text relating to financing and the Special Programme on Tuesday morning.

Chair Idunn Eidheim (Norway) reported that the drafting group had reached agreement on most of the bracketed text on the science-policy interface omnibus decision and would begin consideration of other decisions.

**DRAFT DECISIONS FROM THE CPR: Promoting Air Quality through UNEP:** The COW resumed discussion of this draft decision. NIGERIA called for addressing air quality in a holistic and integrated manner, noting this requires, *inter alia*, enhancing public-private partnerships and technical training on compliance management "beyond workshops and seminars."

LOCAL AUTHORITIES, on behalf of all MAJOR GROUPS, stressed the need to recognize existing policy options and good practices at the local, national and regional levels. She noted that GEO 5 contains a portfolio of legislative, public awareness and direct actions on, *inter alia*: enhancing urban planning; public and non-motorized transport; energy efficiency and waste management; appropriate financing, governance; and technology transfer models for scalability.

NGOs highlighted the impact of long-range environmental transport of pollutants on air quality in the Arctic region.

**Revised Biennial Programme of Work and Budget for 2014-2015:** Ibrahim Thiaw, UNEP, introduced the relevant documents (UNEP/EA.1/6; UNEP/EA.1/7; UNEP/EA.1/7/Add.1; UNEP/EA.1/INF/24; UNEP/EA.1/8; UNEP/EA.1/INF/5; UNEP/EA.1/INF/6; UNEP/EA.1/INF/17; UNEP/EA.1/9; and UNEP/EA.1/INF/21). Chair Lugris invited delegates to comment on the revised biennial programme of work (POW) and budget for 2014-2015.

The US, supported by SWITZERLAND, expressed concern over a "lack of realism" in budgeting and noted that the US\$285 million proposed contribution from the Environment Fund for the 2016-2017 POW exceeds Environment Fund revenues and the

discrepancy – not reflected in the budget itself – would be made up by extra-budgetary contributions. She called for clarification on the sources of this money.

ALGERIA said the proposed administrative costs are too high and MEXICO called for reallocating funds from management to the POW.

BOLIVIA lamented that the 2016-2017 POW focuses on the green economy approach to sustainable development and said alternative approaches must be integrated into the draft decisions.

The EU said that 90% of funds are provided by 15 donors and, supported by ALGERIA, urged all members to make contributions. NORWAY called for a broadened donor base and, expressing concern that the budget is based on estimates, emphasized the need for transparent dialogue with member states. The REPUBLIC OF KOREA said donors need discretion in contribution levels and have a right to know how their contributions are spent. CUBA called for transparent use of the budget and said Small Island Developing States should be treated as least developed countries.

COTE D'IVOIRE welcomed UNEP's investment in regional and sub-regional offices, particularly in Africa. UGANDA said the budget should better reflect national and regional priorities. SUDAN opposed "any and all" budgetary reductions.

The RUSSIAN FEDERATION said the Caspian countries will present a draft decision to give UNEP a mandate to be the permanent secretariat for the Tehran Convention.

The TECHNOLOGICAL AND SCIENTIFIC COMMUNITY, on behalf of WOMEN, supported an increased budget and called for support to ensure effective participation of major groups and stakeholders in decision-making globally and regionally.

The COW established a group to develop draft decisions on the budget.

**UN System-Wide Strategy on the Environment, including the Environment Management Group (EMG):** The Secretariat introduced documents UNEP/EA.1/9 and UNEP/EA.1/INF/21. The EU said the Strategy should provide overarching guidance for joint planning and cooperation among UN entities, and emphasized the central role of the EMG in such coordination. SWITZERLAND mentioned the need to strengthen links with the Chief Executives Board and called for the decision to require the UNEP director to submit progress reports to the EMG. BOLIVIA and CUBA underscored the need for recognizing diverse approaches and visions, as well as country ownership. ALGERIA stressed the need to move from policy to action, and called for a "new spirit" in this regard.

The US, supported by ALGERIA, said that the draft decision is a "two-year errand" that risks taking UNEP away from its core mission. UN FORUM ON FORESTS said that UNEA is an opportunity to call for integration of forests into the final list of SDGs.

Thiaw explained that the impetus for the draft decision was the Rio+20 outcome document, reaffirmed in GC decision 27/5, calling for UNEP to coordinate system-wide strategies on the environment. The draft decision was forwarded to the drafting committee for further revision.

**Stakeholder Engagement:** Julia Pataki, Vice Chair, CPR, presented the relevant documents (UNEP/EA.1/2 and UNEP/EA.1/L.1/Add.1), noting that while considerable progress has been made since the policy was debated in March, unresolved issues include accreditation criteria, the accreditation process, and access to information.

CHINA welcomed the participation of stakeholders but underscored that: member states have the "final say" in decision-making; sufficient time and resources must be dedicated to the work of the member states; and decisions made by ECOSOC must be strictly followed.

The EU underscored that the Rio+20 outcome requires a policy promoting the effective engagement of stakeholders, and called for improving current practices and avoiding regression. MEXICO emphasized that civil society participation is essential to UNEA's work.

The STAKEHOLDERS FORUM underlined that the policy should allow for maximum involvement of stakeholders at all levels of UNEA.

The COW agreed to continue discussions in the working group.

**IMPLEMENTATION OF DECISIONS ADOPTED BY THE GOVERNING BODY AT PREVIOUS SESSIONS: International Water Quality Guidelines for Ecosystems:** The Secretariat introduced documents UNEP/EA.1/3 and UNEP/EA.1/3/Add.1, noting the reports highlight arrangements put in place to date, including the conceptual approach and proposed process to develop draft guidelines for review by July 2015.

ARGENTINA expressed support for UNEP's role but noted that standards are specific to geo-climatic conditions and patterns of water use and should therefore be voluntary in nature.

**Midterm Review of Montevideo Programme IV:** The Secretariat introduced documents UNEP/EA.1/3.Add.3 and UNEP/EA.1/INF/10, which report on a process for the midterm review of the 27 areas under the Programme covering: effectiveness of environmental law; conservation, management and sustainable use of natural resources; challenges for environmental law; and relationships with other fields.

NGOs welcomed UNEP's leadership, noting in particular the inclusive process adopted in the reviews, and observed that UNEP is "uniquely positioned" to identify best practices on a rights-based approach to environmental rule of law. CUBA highlighted the close link between human rights and environmental governance.

**Consolidation of UNEP Headquarters Functions in Nairobi:** The Secretariat introduced documents UNEP/EA.1/2/Add.5 and UNEP/EA.1/INF/16, noting the progressive consolidation of UNEP headquarters functions is being undertaken in the context of the strengthening and upgrading of UNEP. There was no discussion on this item.

**CONTRIBUTIONS BY THE REGIONAL MINISTERIAL ENVIRONMENT FORUMS FOR WHICH UNEP SERVES AS THE SECRETARIAT:** The Secretariat introduced the relevant document (UNEP/EA.1/2/Add.2).

TANZANIA called for increased support for the African Ministerial Conference on the Environment and requested UNEP to include African regional priorities in its POW. CUBA underscored the importance of continued support for regional offices.

**INTERNATIONAL ENVIRONMENTAL GOVERNANCE:** The Secretariat introduced the report on the relationship between UNEP and multilateral environmental agreements (UNEP/EA.1/INF/8), noting this is a "living document" subject to change following future deliberations.

The EU, supported by SWITZERLAND, welcomed the initiative of the UNEP Executive Director to set up a task team to conduct work on this issue, but expressed regret that it has not been possible to move beyond an information document because the work is unfinished, and said it will propose a draft decision that, *inter alia*, requests the Executive Director to submit a full report to UNEA 2.

**COORDINATION AND COOPERATION WITHIN THE UN ON ENVIRONMENTAL MATTERS:** The Secretariat introduced the relevant document (UNEP/EA.1/INF/9). IRAQ flagged the possible relevance of the Organization for the Prohibition of Chemical Weapons for future cooperation.

**COORDINATION AND COOPERATION WITH MAJOR GROUPS:** The Secretariat introduced the relevant document (UNEP/EA.1/INF/7), explaining that it presents the outcomes of regional consultations held in all five regions in 2013, and

emphasizing that the document reflects the views of the major groups and stakeholders, and not necessarily those of UNEP. There was no discussion on this item.

**DRAFT DECISIONS FROM GOVERNMENTS: Marine Plastic Debris and Microplastics:** NORWAY outlined their proposed draft decision, which encourages strengthened cooperation under the Global Partnership on Marine Litter and asks the Executive Director to undertake a study to strengthen knowledge on measures and techniques to reduce microplastics in the marine environment.

The US supported the proposal and suggested framing the issue more broadly as a marine debris problem that includes marine plastics and microplastics. AUSTRALIA, CHILE, SWITZERLAND and the EU welcomed the proposal and called for development of the text.

The CONVENTION ON MIGRATORY SPECIES (CMS) underscored the impact of marine debris on migratory wildlife and highlighted related work done by CMS parties. NGOs called upon governments and WHO to raise awareness of related threats to human health and the environment. BUSINESS AND INDUSTRY expressed concern about singling out plastics over other forms of marine debris and questioned the need for a new study.

Chair Lugris referred the draft text to the drafting group.

**Global Environment Monitoring System (GEMS) Water:**

The EU introduced their draft decision contained in UNEP/EA.1/L.1 noting it recognizes the vital role played by “good water quality and adequate water quantity” to sustainable development.

BRAZIL expressed support for the resolution, noting her delegation would present modified text to the drafting group. SWITZERLAND, the US and CHILE noted the contribution made by the GEMS Water Programme in facilitating data exchange. SWITZERLAND called for actions proposed under this decision to be included in the UNEP POW for 2016-17 for consideration at the next UNEA session. BOLIVIA called for GEMS/Water to recognize the right to water of the poorest populations.

**UNEP ACCESS-TO-INFORMATION POLICY:** The Secretariat introduced document UNEP/EA.1/2/Add.4. CHILE highlighted minor revisions to the draft decision proposed by Chile, the Dominican Republic and Mexico on Monday (UNEP/EA.1/CW/CRP.2).

The EU expressed concerns that the policy focuses more on restrictions than access and fails to account for implications of UNEP Live. On CRP.2, the EU said it shared the views on the importance of Principle 10 but called for inclusion of references to other regional instruments, such as the Aarhus Convention.

**GENDER AND ENVIRONMENT FORUM**

**SESSION 1: BEIJING PLATFORM OF ACTION+20 COMMITMENTS ON GENDER AND THE ENVIRONMENT.**

This session consisted of presentations on new commitments for post-2015 follow-up, covering chemicals, natural resource management in post-conflict situations and environmental governance.

**SESSION 2: ENVIRONMENTAL SUSTAINABILITY AND GENDER: FOCUSING ON THE SDGS AND POST-2015 DEVELOPMENT AGENDA:** Sascha Gabizon, Women in Europe for a Common Future, opened the session by providing a background on the SDG process. Isis Alvarez, Global Forest Alliance, outlined the 17 draft SDGs as currently written and introduced changes proposed by the Women Major Group. Florence Butegwa, UN Women, said that the MDGs did not have adequate means to measure progress toward gender equality, and that the standalone gender equality SDG must be complemented by incorporating mainstreaming strategies into the other goals. Linet Miriti, African Development Bank, agreed, saying it is

crucial to discuss what the gender targets are for each of the SDGs, and that econometrics have proven that gender is a driver of economic growth.

During the discussion, participants noted that, *inter alia*: gender cuts across all areas; there is a need to focus on implementation mechanisms; the original MDGs did not look at how to empower women to become change agents; and there is need to explore the idea of a “gender fund.”

**SESSION 3: GENDER AND CLIMATE CHANGE AND CLIMATE RELATED DISASTERS: RURAL AND URBAN CHALLENGES:** Angela Mwai, UN-HABITAT, moderated the session. Elie Kodsi, UNDP, reported on the Integrated Drylands Development Programme, which seeks to empower drylands women through, *inter alia*, improving access to markets and resources, and building the resilience of local communities to external shocks.

Christina Kwangwari, ActionAid, presented on a climate resilience sustainable agriculture tool kit and efforts to address unpaid care work in the policies of the African Union and New Partnership for Africa's Development.

Esther Mwaura, GROOTS, Kenya, stressed grassroots women should: represent themselves; be involved in decision-making; collect and analyze environmental data; and inform development policies.

Drawing attention to the mindset of environmental custodians, Sarah Ogalleh, University of Vienna, reported challenges in integrating women's perspectives on climate change and adaptation based on a study in the Mau Forest Complex region in Kenya.

During discussions participants addressed, *inter alia*, the need for: providing adequate investment to improve productivity of drylands; promoting sustainable agriculture; addressing migration issues; and using green practices and technologies.

**SESSION 4: POLICIES, STRATEGIES AND DATA ON GENDER EQUALITY AND THE ENVIRONMENT:** This session consisted of presentations on the Global Gender and Environment Outlook, challenges in research methodologies and the Gender and Environment Index.

**IN THE BREEZEWAYS**

At the conclusion of the second day of business, delegates were grappling with the challenges associated with the issues being negotiated. UNEA has been hailed as an “umbrella organization” that can set the environmental agenda, but one developing country representative remarked that this leads to disagreement about whether and how UNEA will interface with other multilateral agreements and conventions.

Recalling the 30th anniversary of the tragic Bhopal disaster at the Union Carbide pesticide factory in India, one delegate commended the thoughtful and informed discussions during Environmental Rule of Law Symposium but expressed disappointment that not all states are ready to facilitate the kind of litigation that would allow victims of environmental crime to bring multinational corporations to trial in their home countries. Expressing contempt, he left waving the newly-released World Investment Report, joking that the section on international investment policies will make good bedtime reading; this issue reports on investment arbitration trends, including multinational corporations' challenges to environmental regulatory actions.

During an innovative “UNEA Unplugged” event in the evening, Kenyan TV journalist Jeff Koinange facilitated a lively and jovial discussion on wide ranging issues such as lifestyle changes, alternatives measures to GDP and illegal trade in wildlife. Some expressed disenchantment with the multilateral process, questioning whether meaningful progress is ever achieved in international negotiations. However, others reiterated that there is still time to effect change and reaffirmed their optimism that UNEA can successfully put an environmental stamp on the SDGs.