

Possible options for the future of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities: An analysis

I. Introduction

1. At the fourth session of the Intergovernmental Review Meeting on the Implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, held in Bali, Indonesia from 31 October to 1 November 2018, the representatives of Governments and the European Union adopted the Bali Declaration on the Protection of the Marine Environment From Land-Based Activities. In the Bali Declaration, the representatives, inter alia, agreed to work on the function, form and implication (including legal, budgetary and organizational), including future of the Intergovernmental Review Meeting and the work currently coordinated by the Global Programme of Action.
2. For this purpose, the United Nations Environment Programme (UNEP) secretariat was requested to present an analysis of options and alternatives for the overall programme and associated coordinating mechanism. The present paper was prepared in response to the above-mentioned request.¹

II. Background

3. For decades, marine pollution from land-based sources has been recognized as one of the key environmental challenges for the international community.
4. Principle 7 of the Declaration of the United Nations Conference on the Human Environment, held in Stockholm in 1972, states that: “States shall take all possible steps to prevent pollution of the seas by substances that are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.” The Action Plan for the Human Environment, adopted at the Stockholm Conference set out, among other things, the recommendations for Governments to strengthen national controls over land-based sources of marine pollution, and that Governments take early action to adopt effective national measures for the control of all significant sources of marine pollution, including land-based sources, and concert and co-ordinate their actions regionally and where appropriate on a wider international basis.
5. In response, the UNEP Governing Council, by its decision 1 (I) adopted at its first session in 1973, requested the Executive Director of UNEP, among other things, to assist nations in identifying and controlling land-based sources of pollution, particularly those which reach the oceans through rivers, and to stimulate international and regional agreements for the control of all forms of pollution of the marine environment, and especially agreements relating to particular bodies of water.

¹ This paper has been prepared with the assistance of Masaharu (Masa) Nagai, an independent expert in the field of international environmental law and governance.

6. Subsequently, since the mid-1970s, UNEP systematically assisted Governments to develop regional seas conventions and programmes around the world. Those regional seas conventions and programmes provided institutional frameworks for Governments to cooperate in controlling marine pollution from land-based sources within the respective regions.
7. The United Nations Convention on the Law of the Sea, in Article 207, provides for the provisions governing marine pollution from land-based sources. In its paragraph 1, States are required to adopt laws and regulations to prevent, reduce and control pollution of the marine environment from land-based sources, including rivers, estuaries, pipelines and outfall structures, taking into account internationally agreed rules, standards and recommended practices and procedures. In paragraph 4 of the same article, States, acting especially through competent international organizations or diplomatic conference, are to endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control pollution of the marine environment from land-based sources, taking into account characteristic regional features, the economic capacity of developing States and their need for economic development. Such rules, standards and recommended practices and procedures must be re-examined from time to time as necessary.
8. Furthermore, the Convention, in Article 213, requires States to enforce their laws and regulations adopted in accordance with article 207 and adopt laws and regulations and take other measures necessary to implement applicable international rules and standards established through competent international organizations or diplomatic conference to prevent, reduce and control pollution of the marine environment from land-based sources.
9. As part of the first Montevideo Programme for the Development and Periodic Review of Environmental Law, adopted by the UNEP Governing Council in 1982, the Montreal Guidelines for the Protection of the Marine Environment from Land-Based Sources were adopted in 1985, providing Governments with a set of recommendations concerning action on the subject.
10. Agenda 21, in chapter 17, underscored, inter alia, that there was no global scheme to address marine pollution from land-based sources, and called on States to consider updating, strengthening and extending the Montreal Guidelines, as appropriate, and assess the effectiveness of existing regional agreements and action plans with a view to identifying means of strengthening action to prevent, reduce and control marine degradation caused by land-based activities. The UNEP Governing Council was invited to convene an intergovernmental meeting on protection of the marine environment from land-based activities.
11. In accordance with chapter 17 of Agenda 21, the UNEP Governing Council, by its decision 17/20 of 21 May 1993, set out an intergovernmental process leading to an intergovernmental conference on protection of the marine environment from land-based activities.
12. The Intergovernmental Conference to Adopt a Global Programme of Action for the Protection of the Marine Environment from Land-based Activities was convened by the Executive Director of UNEP in Washington, D.C., from 23 October to 3 November 1995. The representatives of 109 Governments and the European Commission participated in the Conference, while a number of UN bodies and specialized agencies as well as other intergovernmental and nongovernmental organizations were present as observers. The Conference adopted the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, as well as the Washington Declaration.

13. The Global Programme of Action for the Protection of the Marine Environment from Land-based Activities consists of the following programme components:

- (a) **Actions at the national level**, including: identification and assessment of problems; establishment of priorities; setting management objectives for priority problems; identification, evaluation and selection of strategies and measures; criteria for evaluating the effectiveness of strategies and measures; programme support elements.
- (b) **Regional cooperation**, including participation in regional and subregional arrangements, and effective functioning of regional and subregional arrangements.
- (c) **International cooperation**, addressing: capacity-building, including the mobilization of experience and expertise, and a clearing-house; mobilizing financial resources; international institutional framework; additional areas of international cooperation, including waste-water treatment and management, and persistent organic pollutants (POPs).
- (d) **Recommended approaches by source category**, including: sewage; persistent organic pollutants (POPs); radioactive substances; heavy metals; oils (hydrocarbons); nutrients; sediment mobilization; litter; physical alterations and destruction of habitats.

14. Since its adoption, Governments, at sessions of the General Assembly and major UN conferences, repeatedly called for the implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities (hereinafter referred to as the Global Programme of Action). The World Summit on Sustainable Development Plan of Implementation, in paragraph 32, called for advancing the implementation of the Global Programme of Action. In paragraph 163 of the outcome document of the United Nations Conference on Sustainable Development, entitled “The future we want”, endorsed by the General Assembly in its resolution 66/288 of 27 July 2012, the world leaders commit, among other things, to take action to reduce the incidence and impacts of marine pollution, including the follow-up of relevant initiatives such as the Global Programme of Action.

III. Legal basis

15. The Global Programme of Action is an international non-legally binding instrument. It is to guide Governments to take action, on a voluntary basis, to protect marine environment in accordance with the provisions of the Programme.

16. Although it does not create legal obligations to Governments, the Global Programme of Action provides internationally agreed standards of conduct for Governments as well as an international framework through which Governments undertake concerted action and cooperate each other to protect the marine environment from land-based activities.

17. In addition to its provisions, the implementation of the Global Programme of Action is guided by the intent of Governments expressed in the Washington^[1] Declaration on Protection of the Marine Environment from Land-Based Activities of 1 November 1995.

18. Although the process to prepare the Global Programme of Action, including the Washington Intergovernmental Conference, was organized under the auspices of the UNEP Governing Council, the authority to adopt the Global Programme of Action derived from the powers vested in the representatives of the respective Governments.

19. As such, the Global Programme of Action is governed by those Governments that have consented to implement its provisions. In other words, the Global Programme of Action is an intergovernmental arrangement with autonomous decision-making processes, which is distinct and independent from the UN system.

20. Because of such independent nature of the Global Programme of Action, any institutional or programmatic linkages with the UN system for the implementation of the Global Programme of Action require both the explicit intent of Governments to seek action by the UN system and the endorsement of the governing bodies of the respective UN system organizations to agree to take the relevant action called for by Governments.

21. In the case of the United Nations, the General Assembly, in paragraph 1 of resolution 51/189 of 16 December 1996, endorsed the Washington^[1]_[SEP] Declaration and the Global Programme of Action.

22. In paragraphs 2 to 4 of the same resolution, the General Assembly stressed: the need for States to take the necessary measures for the implementation of the Global Programme of Action; the need for States to take action for the formal endorsement by each competent international organization of those parts of the Global Programme of Action that are relevant to their mandates and to accord appropriate priority to the implementation of the Global Programme of Action in the work programme of each organization; and the need for States to take such action at the next meeting of the governing bodies of UNEP, UN-HABITAT (then UN Centre for Human Settlements), FAO, WHO, IMO, IAEA, ILO, UNESCO Intergovernmental Oceanographic Commission, the relevant bodies of IMF and World Bank, as well as in other competent international and regional organizations within and outside the UN system.

IV. Institutional arrangements

23. The Global Programme of Action, in paragraph 72, underscores that a number of international organizations and institutions, including non-governmental organizations, regional and global, have responsibilities and experience with respect to prevention, reduction and control of impacts upon the marine environment from one or more of the source-categories of land-based activities.

24. It goes on to state that the international institutional framework for implementation of the Global Programme of Action, therefore, should be based upon concerted action by States within the relevant organizations and institutions to accord attention and priority to impacts on the marine environment from land-based activities and concerted action by States to ensure effective coordination and collaboration among such organizations and institutions. In addition, the framework should make provision for regular review of the Global Programme of Action, including its implementation and necessary adjustments.

25. In paragraph 7 of its resolution 51/189, the General Assembly requested the Executive Director of UNEP to prepare, for the consideration of the UNEP Governing Council at its nineteenth session, specific proposals on the role of UNEP in the implementation of the Global Programme of Action, arrangements for secretariat support to the Global Programme of Action, and modalities for periodic intergovernmental review of progress in implementing the Global Programme of Action.

26. The General Assembly, in paragraph 8 of that resolution, called upon UNEP, within its available resources and with the aid of voluntary contributions from States for this

purpose, to take expeditious action to provide for the establishment and implementation of the clearing-house mechanism referred to in the Global Programme of Action.

27. The UNEP Governing Council, at its nineteenth session, in section A of decision 19/14 of 7 February 1997, endorsed the proposed role for UNEP as secretariat of the Global Programme of Action. In the same decision, the Governing Council accorded priority to the implementation of the Global Programme of Action in the programme of work of UNEP, and requested the Executive Director to expand the activities of the Global Programme of Action to all regional seas programmes and to establish links with other regional plans and programmes or conventions for the protection of marine and freshwater environment, in order to ensure their participation in the implementation of the Global Programme of Action.

28. Accordingly, UNEP has been providing the functions of the secretariat of the Global Programme of Action. For that purpose, UNEP established the Programme's Coordination Office in 1997. At the offer of the Government of the Netherlands, the Global Programme of Action Coordination Office was hosted in The Hague. It had operated there as an autonomous unit with its full functions, including the clearing-house mechanism, with the financial support from the host Government, until 2008.

29. The Global Programme of Action Coordination Office was moved to Nairobi in 2008, at the unilateral decision of UNEP's senior management. It was integrated into the Division of Environmental Policy Implementation (currently the Ecosystem Division), and subsumed as a unit under one of its branches. Due to the lack of adequate resources for secretariat functions since around the same period, partly because of the loss of contributions from the host Government, the operation of the clearing-house mechanism had been suspended. The staff members serving for the Coordination Office are currently funded by the UNEP Environment Fund and the UN regular budget.

V. Governance

30. In accordance with the institutional arrangement stipulated in paragraph 72, the Global Programme of Action provides for the three-tier approach for governing its implementation, namely:

- (a) Concerted action by States within the relevant organizations and institutions, through the respective decision-making processes, to accord attention and priority to impacts on the marine environment from land-based activities.
- (b) Concerted action by States to ensure effective coordination and collaboration among such organizations and institutions.
- (c) Regular review of the Global Programme of Action, including its implementation and necessary adjustments.

31. The Global Programme of Action, in paragraph 77, stipulates that UNEP should, in close collaboration with the relevant organizations and institutions, convene periodic intergovernmental meetings to:

- (a) Review progress on implementation of the Global Programme of Action;
- (b) Review the results of scientific assessments regarding land-based impacts upon the marine environment provided by relevant scientific organizations and institutions, including the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP);

- (c) Consider reports provided on national plans to implement the Global Programme of Action;
- (d) Review coordination and collaboration among organizations and institutions, regional and global, that have responsibilities and experience with respect to prevention, reduction and control of impacts upon the marine environment from land-based activities;
- (e) Promote exchange of experience between regions;
- (f) Review progress on capacity-building and on mobilization of resources to support the implementation of the Global Programme of Action, in particular by countries in need of assistance and, where appropriate, provide guidance;
- (g) Consider the need for international rules, as well as recommended practices and procedures, to further the objectives of the Global Programme of Action.

32. Accordingly, overall policy guidance and operational oversight have been given by Governments through a series of an intergovernmental review meeting convened by UNEP.

33. To date, four sessions of the intergovernmental review meeting on the implementation of the Global Programme of Action were held: first in Montreal in November 2001, second in Beijing in October 2006, third in Manila in January 2012, and fourth in Bali in October/November 2018. The conclusions and decisions of the meeting at each session were contained in the declarations adopted at the respective sessions.

34. During the period between sessions of the intergovernmental review meeting, the oversight of the Global Programme of Action is left with Governments, acting individually or collectively in particular through the existing organizations with respect to specific source categories of marine pollution which are within the competence of those organizations.

35. However, there was no dedicated international mechanism to allow Governments to interact among themselves and collectively provide policy guidance or an oversight on matters related to Global Programme of Action during the inter-sessional period.

36. Regarding the specific source categories of marine pollution, the Global Programme of Action envisages that Governments act within the existing organizations or the governing bodies of the relevant regional seas agreements through their respective intergovernmental decision-making processes.

VI. Financial resources

37. In principle, the implementation of the Global Programme of Action, in particular for national action by States, the respective Governments are responsible for financing their own undertakings. Given the special circumstances of developing countries and countries with economies in transition, the Global Programme of Action sets out the provisions for mobilizing financial resources.

38. The Global Environment Facility (GEF) has not become a financial mechanism for the Global Programme of Action as such, though the focal areas of international water and biodiversity might have been considered relevant. Rather, GEF funded selected projects proposed by Governments and relevant entities in the selected areas on a case-by-case basis.

39. A trust fund for the Global Programme of Action has been established within UNEP. However, whether financial resources are available in the trust fund depends entirely on the political will of Governments to make voluntary contributions for that purpose. As a comparison, during the 2000-2001 biennium, the budget of the Global Programme of Action Coordination Office included approximately \$1.4 million from the Netherlands Trust Fund and approximately \$1.5 million from the General Trust Fund, in addition to approximately \$1.2 million from the UNEP Environment Fund (which excluded contributions by UNEP, donors and the host country for the First Intergovernmental Review Meeting and contributions made directly by donors to other partners), while there has been no contribution to the Trust Fund since 2011. After contributions to the Trust Fund were ceased, the source of financial resources had been shifted towards earmarked contributions from donors.

40. Pursuant to paragraph 75 of the Global Programme of Action and in accordance with Governing Council decision 19/14, UNEP carries out its secretariat function, supported largely by the existing resources, expertise and infrastructure available in all components of its programmes.

41. The funding from the UNEP Environment Fund allows the Coordination Office to implement its functions as the secretariat of the Global Programme of Action only in respect of staff services. To provide any other assistance to countries and regions, the Coordination Office must call on donors and other external resources. Fundraising is therefore a core activity of the Coordination Office.

42. For the period from 2012 to 2018, staff costs of the Coordination Office amounted to just under \$5.6 million. Of that amount, \$4.3 million was contributed from the UNEP Environment Fund, while just over \$1.2 million was contributed from the UN regular budget. No contribution was made to the Trust Fund. Extra-budgetary resources allocated to activity implementation by thematic area, namely nutrients, wastewater and marine litter, totalled \$10.5 million. This included donor contributions from partnerships and earmarked funds and the Global Environment Facility.

43. For the fourth session of the Intergovernmental Review meeting, its cost was just below \$500,000 and funded by the extra-budgetary contributions from the Government of Sweden, as well as by the Government of Indonesia as the host country that made also in-kind contribution to provide local logistics such as conference facilities and local support staff.

VII. Current issues

A. The role in marine environmental governance

44. The Global Programme of Action is by far the most comprehensive international instrument, and the only global scheme to address the protection of the marine environment from land-based sources of pollution. It is built upon the source-to-sea approach covering all activities along this spatial setup, with a focus on the prevention. The Global Programme of Action is the only global intergovernmental mechanism directly addressing the connectivity between terrestrial, freshwater, coastal and marine ecosystems.

45. The protection of the marine environment from land-based activities is primarily the responsibility of each State. Where internationally coordinated action is required, a large number of international organizations within their respective areas of competence, both within and outside of the UN system, are involved to assist efforts of States. In addition, a broad range of stakeholders and nongovernmental entities each has a role to play in the specific areas of their interest.

46. As such, there are multitudes of decision-making processes at the national and international levels to address various aspects of protecting the marine environment from land-based activities. The Global Programme of Action is designed to provide conceptual and practical guidance to connect those fragmented efforts, including through shared knowledge that enables meaningful coordination. It provides an umbrella framework under which States and relevant organizations, including treaty bodies, can act more coherently and avoid duplication of efforts.

47. Also, as demonstrated recently in the case of marine debris and micro plastics, the Global Programme of Action had served as an “incubator” to make certain issues of specific source categories to grow into political agenda, through targeted partnerships and campaigns.

B. Relevance to the current policy agenda

48. Over the past two decades, there have been important developments in the areas covered by the Global Programme of Action. The Global Programme of Action had served as an “incubator” to bring certain source categories of pollution to the forefront of the global environmental agenda for international action.

49. Regarding persistent organic pollutants (POPs), the need for international action to control POPs was identified during the preparation of the Global Programme of Action, and recognized as such in the Programme paving the ground for a subsequent intergovernmental process to develop an international legally binding instrument. The Stockholm Convention on Persistent Organic Pollutants was adopted in 2001, and entered into force in 2004. The Stockholm Convention provides for obligations to its Parties to take measures to reduce risks to human health and the environment from POPs. With regard to heavy metals, in particular mercury, the Minamata Convention on Mercury, adopted in 2013, provides a life-cycle approach of obligations to its Parties in reducing risks to human health and the environment from mercury. In those areas, the actions envisaged in the Global Programme of Action have been overtaken by the events.

50. Nevertheless, the subject of the protection of the marine environment from land-based activities as a whole remains one of the key areas in the overall international governance of the marine environment. Certain areas, such as marine debris and micro plastics, have become important global policy issues in recent years, and other areas, such as nitrogen and other nutrients, are increasingly receiving political attention at the international level due to their potential impact on the global environment. Including these, the subjects areas highlighted in the recent Bali Declaration where global partnerships exist are of particular relevance to the current policy priorities.

51. Besides, recent political developments, such as certain targets under the Sustainable Development Goals and elements of a cluster of pollution related resolutions adopted at the third session of the United Nations Environment Assembly, demonstrated the increasing policy relevance of the Global Programme of Action to the current policy agenda in the environmental dimension of sustainable development.

C. Adequacy of the functioning

52. Among the key functions of the Global Programme of Action, the lack of the implementation of the clearing-house mechanism over the past decade might have severely hampered the effective delivery of its objectives, and contributed to the lack of visibility of the Programme. The clearing-house mechanism is an important means of mobilizing experience and expertise, including facilitation of effective scientific, technical and financial cooperation, as well as capacity-building, as set out in paragraph 42 of the Programme.

53. The clearing-house mechanism is a referral system through which decision makers at the national and regional level are provided with access to current sources of information, practical experience and scientific and technical expertise relevant to developing and implementing strategies to deal with the impacts of land-based activities. The referral system would be designed to allow decision makers to establish rapid and direct contact with the organizations, institutions, firms and/or individuals most able to provide relevant advice and assistance. It would therefore be a mechanism for responding to requests from national Governments on a timely basis. It would serve also as a key tool for coordination among various actors at all levels.

54. Inadequate functioning of the Global Programme of Action due to the lack of sustained support by UNEP and Governments in operating its key mechanisms (such as the clearing house), coupled with the lack of its visibility, might have also contributed to the lack of adequate and predictable funding. Hence, it appeared critical to restore the operation of the clearing-house mechanism, in order to trigger the improvements in the overall functioning of the Programme.

55. While the global environmental agenda evolves in a relatively shorter period due to the progressive advancement of information technologies and communications, the periodicity of the intergovernmental meeting to review the implementation of the Global Programme of Action, i.e. approximately every five years, appears to be rather long to provide Governments and relevant organizations with strategic directions on emerging issues. This might make the political relevance of the Global Programme of Action rather obscure in the international institutional structures concerning the protection of the marine environment, which in turn could affect the effectiveness of the Programme in providing practical guidance for handling impacts on the marine environment from land-based activities.

D. Multi-stakeholder partnerships

56. The Global Programme of Action is designed primarily to guide and assist Governments to take national and international actions to address marine pollution from land-based activities. Nevertheless, the Programme recognizes the responsibility and experience of international organizations and institutions, including nongovernmental organizations with respect to prevention, reduction and control of impacts upon the marine environment from one or more of the source categories of land-based activities.

57. At the third session of the Intergovernmental Review Meeting, held in Manila in January 2012, Governments decided, in the Manila Declaration, that, over the period 2012–2016, the Coordination Office should focus its work on nutrients, marine litter and wastewater as the three priority source categories using global multi-stakeholder partnerships.

58. Pursuant to the above mandate, the Coordination Office focused its resources on engaging strategically with Governments and other relevant stakeholders to address the three priority source categories (nutrients, marine litter and wastewater) through global voluntary multi-stakeholder partnerships of Governments, intergovernmental agencies, academia, the private sector and civil society. Subsequently, the Coordination Offices launched, between 2012 and 2013, the Global Partnership on Nutrient Management, the Global Partnership on Marine Litter and the Global Wastewater Initiative. Those partnerships are currently in operation, respectively.

VIII. Points for consideration

59. Points for consideration regarding the future of the Global Programme of Action may include the issues related to its functions and form, as follows.

A. Functions

60. Firstly, it would be necessary to determine whether the functions set out in the Global Programme of Action are considered relevant and necessary for the international community today and the future, hence those functions should be retained or not. Consideration should be given to the following aspects of the Global Programme of Action:

- (a) Provides a global scheme, under one umbrella, comprehensively addressing the marine pollution from land-based activities.
- (b) Is the only global intergovernmental mechanism directly addressing the connectivity between terrestrial, freshwater, coastal and marine ecosystems.
- (c) Aims at preventing the degradation of the marine environment from land-based activities by facilitating the realization of the duty of States to preserve and protect the marine environment.
- (d) Is designed to assist States in taking actions individually or jointly within their respective policies, priorities and resources, which will lead to the prevention, reduction, control and/or elimination of the degradation of the marine environment, as well as to its recovery from the impacts of land-based activities.
- (e) Recognizes that the duty of States to preserve and protect the marine environment has been reflected and elaborated upon in numerous global conventions and regional instruments.
- (f) Is designed to be a source of conceptual and practical guidance to be drawn upon by national and/or regional authorities in devising and implementing sustained action to prevent, reduce, control and/or eliminate marine degradation from land-based activities.
- (g) Reflects the fact that States face a growing number of commitments flowing from internationally agreed environmental and/or development goals set out in non-legally binding policy instruments (such as Agenda 21, 2030 Agenda) and related conventions.
- (h) Provides a set of guidance for States to undertake action at the national level, as well as recommended modalities of regional and international cooperation.
- (i) Provides recommendations on approaches by source category, setting out guidance as to the actions that States should consider at national, regional and global levels, in accordance with their national capacities, priorities and available resources, and with the cooperation of the United Nations and other relevant organizations, as appropriate, and with the international cooperation for building capacities and mobilizing resources.
- (j) Addresses the following source categories: sewage; persistent organic pollutants (POPs); radioactive substances; heavy metals; oils (hydrocarbons); nutrients; sediment mobilization; litter; physical alterations and destruction of habitats.

- (k) Requires new approaches by, and new forms of collaboration among, Governments, organizations and institutions with responsibilities and expertise relevant to marine and coastal areas, at all levels- national, regional and global.

61. In addition, it should be recalled that the Global Programme of Action provides a single global scheme for Governments to address a broad range of impacts on the marine environment from pollution from land-based activities, which would allow Governments to take concerted, holistic approach to tackle complex causes of marine pollution which are interconnected, and also bring their efforts together at national, sub-regional and regional levels. Hence, consideration should be given to the role of such a global intergovernmental scheme in international environmental governance in general, and the regimes for marine environmental governance in particular.

62. Consideration should be given also to the need for a holistic comprehensive approach like the Global Programme of Action, instead of a single issue-based approach, to address marine pollution from land-based activities.

63. Furthermore, there are ongoing initiatives within the context of the Global Programme of Action, such as the three global partnerships on nutrients, marine litter and wastewaters. Overall, there will be the continuing need for Governments to address a host of sources of marine pollution from land-based activities. Therefore, it would be necessary to consider how the problems associated with a range of specific source categories of marine pollution might be effectively addressed through concerted action of Governments and organizations concerned, with or without the Global Programme of Action.

B. Form - legal and institutional architecture

64. Secondly, if the functions of the Global Programme of Action should be retained, what should be the appropriate legal and institutional arrangements to provide for those functions, or whether the current form of the Global Programme of Action should be retained, with or without adjustments. If the form should be changed, what would it look like?

65. The following presents the current legal and institutional architecture of the Global Programme of Action, listed side-by-side with possible alternatives.

	Current architecture	Possible alternatives
Legal	Autonomous intergovernmental arrangement. Non-legally binding instrument, setting out recommendations.	Legally binding instrument, e.g. as a global framework agreement; or Re-constitute as an arrangement within an existing organization, which is subject to the authority of that organization.
Institutional arrangements	Governments to take national action, and through their concerted action, to influence activities of the existing organizations at the international level. Existing organizations, conventions and other entities are expected to implement the relevant elements.	Establishment of an independent intergovernmental body; or Establishment of a multi-stakeholder forum; or Become subsidiary to the intergovernmental organ of an existing organization; or Integrated into an existing organization as its programme.

	Current architecture	Possible alternatives
Secretariat	UNEP designated to provide secretariat services.	A Government or governments to provide secretariat; or Designate another existing organization or a group of organizations to provide secretariat.
Coordination	Governments to take concerted action to influence the policies and programmes of the relevant organizations. Use of a specific organization designated by Governments for coordination (i.e. UNEP to facilitate coordination).	Establishment of a dedicated mechanism for coordination among Governments and relevant organizations.
Governance	Periodic intergovernmental meetings, i.e. the Intergovernmental Review Meeting, convened by UNEP, to review implementation, provide oversight and take decisions.	A standing body for providing oversight and decision-making, composed of universal membership or limited number of elected membership; or Integrated into the governance structure of an existing organization.
Participation in decision-making	Governments, including regional economic integration organizations only.	Governments and relevant stakeholders (e.g. similar to the Strategic Approach to International Chemicals Management).
Financing	Each Government is to provide resources of its national action. For international action (including support to developing countries), voluntary contributions from Governments and other donors. Available resources of the existing organizations to undertake relevant programme elements. Cost for secretariat staff covered by UNEP (Environment Fund and UN regular budget for staff cost). Cost for operating the governance structure (i.e. intergovernmental review meeting) covered by extra-budgetary resource available at UNEP from earmarked contributions from donors.	For international action: Assessed voluntary contribution; and/or Dedicated financial mechanism.

IX. Options and alternatives

66. Options for the future of the Global Programme of Action should be considered on the basis of the functions of the Programme and the possible forms in which those functions are to be carried out. The possible options may be largely divided into three: the first for its continuation, the second for its transformation, and the third for discontinuation. The following presents a non-exhaustive list of possible options under those three scenarios.

A. Option 1: Continuation

67. The options for the continuation of the Global Programme of Action might include the followings.

	Option 1 – (a)	Option 1 – (b)
	Original functions and form	Revised functions and/or form
Features	<p>Same as provided in the Global Programme of Action regarding the functions and form.</p> <p>It does not necessarily means the status quo in the recent years. Where required, its functions (e.g. cleaning-house) should be reinvigorated so that it plays its intended role to facilitate national and international action.</p>	<p>Updating the functions, reflecting the developments over the past two decades, such as the contents of the recommendation by source category.</p> <p>Revise its functions to address a wider (or narrower) scope of issues, so as to increase policy relevance (e.g. more focused scope of a specific source category, such as refining the scope of litter to focus on marine debris and micro plastics).</p> <p>Reforming the institutional arrangements, within the overall legal and institutional framework.</p>
Implication:		
Legal	<p>Autonomous intergovernmental arrangements, distinct from the UN system or other existing organizations and entities.</p> <p>The UN system (including UNEP) is linked on mutually agreed terms, i.e. by decisions of the respective governing bodies and the provisions of the Global Programme of Action.</p>	
Financial	<p>Operational cost:</p> <p>UNEP Coordination Office staff cost: approximately \$1 million annually.</p> <p>Intergovernmental Review Meeting (conference servicing and travel support for participation of developing countries): approximately \$500,000 for a meeting every 5 years (cost estimate may vary depending upon the number of working languages or travel support for participants).</p>	<p>Operational cost:</p> <p>If the institutional arrangements, including secretariat and intergovernmental review and decision-making processes are changed, the necessary financial resources might be changed as well.</p>

	Option 1 – (a)	Option 1 – (b)
	<p>Programme cost:</p> <p>Need the adequate resources to restart the clearing-house mechanism.</p> <p>Need for resources to facilitate Governments’ actions regarding specific source categories, including through partnerships.</p>	
Institutional	<p>Governments are the main actors to take action to implement the Global Programme of Action.</p> <p>Governments take concerted action to engage all the relevant organizations, including UNEP, in the implementation.</p>	
	<p>The role of UNEP as secretariat and for coordination, and the clearing-house (which needs to be reinvigorated)</p>	<p>The role of UNEP might be adjusted.</p> <p>Other organizations or government offices might be involved.</p>
Governance	<p>Policy guidance and oversight by collective decisions of Governments at an open-ended intergovernmental meeting (Intergovernmental Review meeting) convened by UNEP every 5 years.</p>	<p>Policy guidance and oversight by collective decisions of Governments.</p> <p>Such decision might be taken through:</p> <ul style="list-style-type: none"> • An open-ended intergovernmental meeting (i.e. open to all States); or • A body or group composed of limited number of Governments representing the respective regions; or • The combination of the above two, possibly meeting in a different intervals; or • The agreed procedure, coordinated by the representatives of selected Governments, which may not necessarily require physical face-to-face meeting of Government representatives.
Current work	<p>Ongoing partnerships and other initiatives may be carried on.</p>	
Process for change	<p>For the arrangements that require the allocation of financial resources from the UNEP Environment Fund (e.g. staff cost for the Coordination Office), it has to be part of the UNEP budget approved by the UN Environment Assembly.</p>	<p>Revisions of the functions and/or form, including the institutional arrangements and any change in decision-making process, should be initiated and decided by Governments themselves, at an intergovernmental meeting.</p> <p>If those revisions involve UN (including UNEP), the revisions need to be endorsed by the General Assembly, and with regard to the matters involving UNEP, by the UN Environment Assembly. Where the revisions relate also to the other intergovernmental bodies, endorsement of those bodies would be required as well.</p>

B. Option 2: Transformation

68. Another scenario is to change the form of the Global Programme of Action while retaining the current or revised functions. Options might include the possible conversion into an international legally binding instrument, or the establishment of an independent intergovernmental body or a multi-stakeholder forum to carry out certain functions.

	Option 2 – (a)	Option 2 – (b)
	Legally binding instrument	Independent body
Features	Changing the form into an international legally binding instrument that might function as an umbrella legal framework to protect the marine environment from land-based activities, or to address certain source categories of pollution which require globally concerted action.	Establishing an independent body, in the form of an intergovernmental body or a multi-stakeholder forum, to collectively identify and assess problems, set priorities and facilitate concerted actions for the protection of the marine environment from land-based activities.
Implication:		
Legal	The global scheme to address marine pollution from land-based activities, as established by the Global Programme of Action, is transformed into a set of commitments and obligations.	An international body, established on the basis of consent by Governments, with autonomous decision-making structure. It might be based on an instrument (e.g. a resolution of an intergovernmental conference) in which Governments express their consent to establish such a body (e.g. the format used to establish the Intergovernmental Science-Policy Platform for Biodiversity and Ecosystem Services). Regarding a multi-stakeholder forum involving Governments and relevant stakeholders, a model might include the International Conference on Chemical Management, which governs the Strategic Approach to International Chemicals Management.
Financial	Governments that are parties to the legally binding instrument are to provide financial resources to jointly cover the cost of operations under the instrument. The cost depends upon substantive programmatic activities as well as the institutional arrangements, such as the modality for providing secretariat functions or the ways in which parties collectively make decisions (e.g. by holding regular meetings of a standing governing body). For example, approximately \$1.5 million was budgeted for a meeting of the Conference of the Parties to the	Those Governments (and other entities where relevant) that are members of such body may be responsible for providing financial resources for its operations. Financial implications might be similar to those for an international legally binding instrument. The process to prepare the establishment of an international body or forum is likely to require a series of negotiating meetings among Governments, and where relevant, other stakeholders. Financial resources for such preparatory process need to be secured.

	Option 2 – (a)	Option 2 – (b)
	<p>Minamata Convention, and staff cost for overall management was approximately \$2 million per year (Decision MC 1/15 of the Conference of the Parties).</p> <p>It should be noted, however, that operating costs depend upon the unique features of the respective instruments.</p> <p>Costs for relevant activities as required by the instrument might need to be added.</p> <p>Also, financial resources are required for organizing an intergovernmental process to prepare an international legally binding instrument.</p>	
Institutional	Once established, it provides an autonomous legal regime distinct from other entities.	It might be a stand-alone independent body / forum, or institutionally linked to the existing organization or organizations while keeping its autonomy.
Governance	Parties to the legally binding instrument are to collectively oversee the implementation of the action required under the instrument.	Members of the body are to guide and oversee its operations, through the agreed decision-making structure and procedures.
Current work	Subject to the scope of the instrument, the ongoing partnerships and other work might be carried forward to complement the action under the instrument.	Subject to decisions of Members of the body as well as the wish of those involved in the ongoing work, it might be carried out under the framework of such body or complement its activities.
Process for change	Governments may initiate the preparation of an international legally binding instrument through a process triggered by decisions of the intergovernmental organ or governing body of an existing organization (e.g. General Assembly, UN Environment Assembly) or through a stand-alone intergovernmental conference. It might be adopted by a diplomatic conference.	Governments (and other relevant entities) may initiate the process to establish such a body through a stand-alone intergovernmental or intergovernmental and multi-stakeholder process, or a process initiated by the governing body of an existing organization. It may be concluded by a resolution of an international conference convened for that purpose.

C. Option 3: Discontinuation

69. The Global Programme of Action might be discontinued, with possible options of either integrating its functions into programmes of Governments and the existing organizations, or terminating its functions, as follows.

	Option 3 – (a)	Option 3 – (b)
	Certain functions of the Global Programme of Action may be succeeded by existing organizations or under initiatives of Governments, without the form of a distinct global scheme.	Termination of the Global Programme of Action (both functions and form).
Features	Integrating the relevant components of the Global Programme of Action into programmes of existing organizations as they relate to the respective mandates of such organizations. This may include UNEP. Dissolving the Global Programme of Action as a stand-alone, autonomous global scheme.	Discontinuing the functions of the Global Programme of Action, on the assumption that it has accomplished its objectives, and dissolving it.
Implication:		
Legal	The elements of the Global Programme of Action incorporated into programmes of the relevant organizations will be subject to the authority and decisions of those organizations, respectively.	Governments need to collectively decide on whether to terminate the Global Programme of Action. Whether and how to follow up the eventual termination of the Programme may be decided by individual Governments or the organizations concerned.
Financial	Financial resources used for the operation of the Global Programme of Action, namely secretariat staff and intergovernmental meetings (Intergovernmental Review Meetings) may be directed elsewhere.	
Institutional	There may be no overarching institutional framework to connect Governments and organizations to address pertinent issues and coordinate them for coherent action, unless provided by a different instrument.	
Governance	Implementation of the relevant programme elements (e.g. action for specific source categories) may be directed by the governing bodies of the respective organizations.	When Governments collectively take a decision to discontinue the Global Programme of Action at an intergovernmental meeting, there should be guidance on the ways in which the Programme is closed down.
Current work	The relevant organizations might incorporate the ongoing work (e.g. global partnerships on certain source categories) into their programmes within the respective mandates.	Ongoing activities within the framework of the Global Programme of Action should be implemented according to the terms of conditions as agreed with donors, but may be gradually closed down or moved under a different arrangement.

	Option 3 – (a)	Option 3 – (b)
Process for change	Governments, at an intergovernmental meeting, need to take decision to dissolve the Global Programme of Action.	
	Governments may take concerted action within the relevant organizations to integrate the relevant programme components of the Global Programme of Action into their respective programmes.	Governments may need to determine modalities of their action to address impacts on the marine environment from land-based activities, without the Global Programme of Action.
	The General Assembly may acknowledge the above changes. The UN Environment Assembly may acknowledge the above changes and decide on how to handle the relevant programme components or necessary follow up within UNEP.	

X. Conclusion

70. “By 2025, prevent and significantly reduce marine pollution of all kinds, in particular from land-based activities, including marine debris and nutrient pollution.” This is one of the commitments of the world leaders signified in the Sustainable Development Goals, as contained in target 14.1 of Goal 14 concerning the conservation and sustainable use of the oceans, seas and marine resources for sustainable development. Any decision on the future of the Global Programme of Action should result in the best way forward for achieving that target.