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Response to Co-Chair's invitation to United Nations organizations to submit their views on the Pact for Environment

Excellency,

OHCHR has followed with great interest the developments surrounding GA Resolution 72/277 and welcomes the opportunity to provide this input to the continuing discussion *Towards a Global Pact for the Environment*.

In our inputs to the Secretary General's Gap report, OHCHR emphasized that the overarching objective of environmental law is the protection of both people and planet for this and future generations and that the key principles of environmental law reflect and derive from the intersection of environment-related instruments including international human rights law.¹

While there is currently no universal international instrument that articulates the right to a clean and healthy environment, the relationship between the enjoyment of basic human rights and a clean, healthy and sustainable environment has long been recognized at both the national and international level. Importantly, at least 155 States recognize a human right to a healthy environment in their constitutions or in sub-constitutional regulations.² The right is also evoked in non-binding declarations, such as the Stockholm and Rio Declarations. And several sector-specific binding international and regional conventions recognize the right to live in a healthy environment.³

Many human rights instruments also explicitly reference the environment or environmental concerns. The Convention on the Rights of the Child references environmental pollution and environmental sanitation as issues that must be addressed to ensure the right to health and also calls for children's education to help them develop

¹ See e.g. Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Framework Principles on Human Rights and the Environment, A/HRC/37/59, Annex (24 January 2018).

² See David R. Boyd. 2018. "Catalyst for Change: Evaluating Forty Years of Experience In Implementing the Right to a Healthy Environment," Chapter 2 in J. Knox and R. Pejan, eds. *The Right to a Healthy Environment*. Cambridge University Press, pp. 17-42.

³ These include the 1981 African Charter on Human and Peoples' Rights (Art. 24); the 1988 San Salvador Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Art. 11); the Aarhus Convention (Art. 1); the African Convention (Art. III); the 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Art. 18); the 2004 Arab Charter on Human Rights (Art. 38); the 2015 Inter-American Convention on Protecting the Human Rights of Older Persons (Art. 25); and the 2018 Escazú Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Art. 4-1).



a respect for the natural environment,⁴ Numerous regional human rights treaties include the right to a healthy environment⁵ as do the environmental democracy treaties.⁶

In a series of resolutions, the UN Human Rights Council has focused specifically on the environment, toxics and climate change, among other issues, explicitly noting the connections between a healthy environment and the effective enjoyment of human rights.⁷ Such resolutions, in tandem with the work of the human rights treaty bodies,⁸ and the special procedures mechanisms of the Human Rights Council have raised awareness of environmental health and sustainability as a fundamental pre-requisite to the enjoyment of human rights. Regional courts may also fill gaps between sources of human rights law and environmental law as seen in the Inter-American Court of Human Rights' 2017 finding that States must take measures to prevent significant environmental harm to individuals inside and outside their territory.⁹

Further, human rights instruments reflect a wide array of principles, which are currently applied in the context of environmental law including solidarity, accountability, transparency, participation, access to information and remedies, the precautionary principle, equality, and equity. A human rights based approach to environmental matters is critical because, by integrating these principles, it ensures actions that benefit both people and planet.

It is well recognized that environmental degradation interferes with the enjoyment of a broad range of human rights including those to housing, water and sanitation, food, health, development, and an adequate standard of living. Under international human rights law, States have an obligation to prevent foreseeable human rights harms, including those caused by environmental degradation. Effective laws and policies are a critical tool for fulfilling human rights obligations.

⁴ See Articles 24 and 29.

⁵ See e.g. the African Charter, San Salvador Protocol, Arab Charter, and the Human Rights Declaration of the Association of Southeast Asian Nations,

⁶ The Aarhus Convention and the Escazu Agreement.

⁷ See e.g., HRC Resolution 38/4 on human rights and climate change; HRC resolution 37/8 on human rights and the environment; HRC Resolution 27/23 on the Mandate of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes. See further D. Shelton, 'Human Rights, Health & Environmental Protection: Linkages in Law & Practice', World Health Organization (2002), http://www.who.int/hhr/Series_1%20%20Sheltonpaper_rev1.pdf (accessed 24 August 2018).

⁸ See, e.g., Human Rights Committee, General Comment on Article 6 of the International Covenant on Civil and Political Rights, Compilation of General Comments and General Recommendations adopted by Human Rights Treaty Bodies, HRI/GEN/1/Rev.3 (1997); Committee on Economic, Social and Cultural Rights, General Comment 12 on Article 11 of the International Covenant on Economic, Social and Cultural Rights, E/C.12/1999/5 (1999); *ibid.*, General Comment 4 on Article 11 of the International Covenant on Economic, Social and Cultural Rights, HRI/GEN/1/Rev.3 (1991), para 5; Committee on the Elimination of Discrimination against Women, Concluding Observations on Romania, CEDAW/C/2000/II/Add.7 (2000), para 38.

⁹ *The Environment and Human Rights (State Obligations in Relation to the Environment in the Context of the Protection and Guarantee of the Rights to Life and to Personal Integrity (Interpretation and Scope of Articles 4(1) and 5(1) of the American Convention on Human Rights)*, Advisory Opinion OC-23/18, Inter-Am. Ct. H.R., (ser. A) No. 23 (Nov. 15, 2017).



It is for this reason that OHCHR believes any future Global Pact on the Environment must effectively integrate human rights. Please do not hesitate to contact us if we can be of any assistance in this regard (bschachter@ohchr.org, +41229289681).

Please accept, Excellency, the assurances of our highest consideration.

A handwritten signature in black ink, appearing to read 'Benjamin Schachter'.

Benjamin Schachter
Environment Focal Point
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