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## **Switzerland – Response to Questions 1 and 2 (Agenda item 4)**

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Delivered by Marco Crugnola and Sebastian König, 18/03/2019

## ON GUIDING QUESTION 1

Thank you Madam co-chair

We would like to specify that our statement only pertains to the first question of your guiding question 1 as we believe that form follows function and not the other way around.

Now regarding principles:

Codifying principles is very risky: there are three aspects to it:

- a) Could be done in an overarching instrument
- b) legally binding or non-legally-binding,
- c) sectorially (e.g. for biodiversity)

While there may be a certain value in agreeing on up-to-date, ambitious and clear formulations of key principles, we see **great risks** in attempting to codify or re-formulate principles as this could lead to a weakening of principles and an undermining of existing MEAs, as many before us have said and for the same reasons.

**Option 1: Existing principles from one geographical region or from one level (national, regional, or global level) are “transferred” and applied to the other regions or other levels, taking into account their different circumstances**

The SG report notes in Paragraph 14 for instance that some of the underlying legal developments have taken place regionally and with remarkably little geographic symmetry.

Examples in this regard:

- Compare to UNECE Water Convention that became a global convention.
- Participation of stakeholders in the Aarhus convention vs. other conventions

**Option 2: Target the *specific* deficit of *each* principle, within its current setting/context, for instance within the MEA in which it is embedded. This means that the Conference of the Parties takes decisions on targeting the specific deficits within their own MEA.**

An example of a principle which could benefit from addressing its specific deficits:

The relationship between the enjoyment of basic human rights and the environmental quality has long been recognized. However, as for the principle of the “right to a clean and healthy environment”, international treaties have not defined the threshold (as well as the scope and content) of a “clean and healthy” environment.

**With regard to all the options mentioned before, we see the strengthening of UNEP as a precondition to success in this regard. Again, allow me to illustrate our point:**

UNEP’s core mandate is to keep the environment under review. UNEP needs be further strengthened to have the know-how to identify thematic gaps and emerging issues. And UNEP needs be further strengthened so that UNEP and the environmental dimension is heard better in other UN agencies.

## ON GUIDING QUESTION 2

The second question speaks to the challenges related to the governance structure. International environmental governance and the interplay of the different elements of international environmental law are areas, which in our understanding require our attention.

First of all, we must bear in mind that multilateral environmental agreements do not cover all areas of environmental challenges. There will always be a gap or gaps in that respect, but this is mainly a reflection of the prioritization by member states regarding a multitude of environmental challenges.

Now regarding gaps related to the governance structure and options to address them, we see the following options as promising avenues:

**Option 1: fostering clusters and synergies between conventions**

An overarching instrument with principles would be a top down approach. However, experience has shown us that improving on the governance structures is needed to address gaps in implementation of MEAs. In our view, implementation generally works and answers to specific gaps in implementation are best addressed by **bottom-up approaches**, i.e. for example synergies among MEAs.

The Chemicals and Waste Cluster with its BRS conventions is exemplary: reporting cycles are in sync, and cost efficiency is assured given common secretariat functions or IT services.

**Option 2: Make use of the Environment Management Group, with its mandate to streamline the work on the environment, with UN-system wide coordination, to deliver as One**

As a concrete example EMG could engage in a exercise, mapping existing global and regional action plans and agreements to create an overview of coverage and identify interlinkages

**Option 3: avoiding duplication of reporting and/or monitoring processes by using the same reporting channels and not creating additional burdens**

The biodiversity cluster can serve as an example: there, a modular reporting could alleviate the reporting burden.

**Option 4: Use the internationally agreed environmental goals.**

We believe that the Global Environmental Goals/ internationally agreed environmental goals can serve as a response option to streamline the engagement of various MEAs: eg. Aichi Targets, Paris Agreement goal 1.5C etc.

**Option 5: relate on science-based information as a basis for identifying thematic gaps.**

We need to strengthen UNEP in its science for policy work, and build on existing processes and mechanisms.

An example can be found in the process and challenges with respect to Marine Litter and Microplastics: operative paragraphs of the respective UNEA 4 resolution ask for better coordination and cooperation on science for policy on that specific topic to further inform decision-makers.

Thank you.