



INTERNATIONAL COUNCIL of ENVIRONMENTAL LAW
CONSEIL INTERNATIONAL du DROIT de L'ENVIRONNEMENT
CONSEJO INTERNACIONAL de DERECHO AMBIENTAL

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17 July 2020

The International Council of Environmental Law (ICEL) – an international non-governmental organization in general consultative status with the UN Economic and Social Council since 2000 and accredited to the United Nations Environmental Program (UNEP) – presents compliments to the Co-facilitators H.E. Ms. Saqlain Syedah and H.E. Mr. Ado Lohmus, and submits this **Note for the first informal substantive consultation on General Assembly resolution 73/333** under the auspices of the Committee of Permanent Representatives (CPR) to be held virtually from 21-23 July 2020. ICEL commends the CPR for leading the process, and the Co-facilitators and the Secretariat for the Co-facilitators' Outline Document and the Information Note, to enable the building blocks for the next 50 years of UN environmental stewardship.ⁱ

INTRODUCTION

The severity of the state of the environment caused by anthropogenic stress on the Earth's ecosystem evidences the critical need for immediate action by all.ⁱⁱ This is the underlying concern of the UN General Assembly (UNGA) resolution 72/277, "Towards a Global Pact for the Environment,"ⁱⁱⁱ which led to resolution 73/333: the "need to continue to address, in a comprehensive and coherent manner, the challenges posed by environmental degradation in the context of sustainable development." **Resolution 73/333^{iv}**, endorsing the Recommendations of the ad hoc open-ended working group established pursuant to resolution 72/277, **is a constructive outcome that can grow in ambition and commitment** as all Member States, the entire UN system, and civil society contribute to their implementation.

The Recommendations mostly deal with the "what" is needed, however, and do not sufficiently address the "how" or the "when" to review or follow-up on such actions and challenges. **This informal substantive consultation under the auspices of the CPR on the implementation of UNGA resolution 73/333 should be the momentous occasion to identify concrete actions and deadlines to deliver the more ambitious response** as precise inputs to the fifth session of the United Nations Environment Assembly (UNEA-5) and the United Nations high-level meeting in the context of the 50th commemoration of the creation of UNEP, as well as to Specialized Agencies and to the Governing Bodies of Multilateral Environment Agreements (MEAs), taking into account the U.N. Secretary-General's Report concerning resolution 72/277.^v

This Note sets forth an independent assessment by a working group of expert members of the International Council of Environmental Law (ICEL).^{vi} Since 1969, when it was established in New Delhi, ICEL has advanced knowledge on international environmental law and the legal foundations for sustainable development. As an international non-governmental organization accredited to the UN Economic and Social Council since 1973, ICEL has shared its expertise with ECOSOC, UN Members States, the United Nations Environmental Program, and international organizations. ICEL's members are senior environmental law experts drawn from all of the UN regions and all legal traditions: civil law, common law, socialist law, Islamic law, and customary law.

1. GOVERNANCE

1.1 STRENGTHENING UNEP AND UNEA (Recommendation 6)

The Recommendations reaffirm UNEP's and UNEA's established leading roles on the environment as per the outcome document of the Rio+20 Conference, entitled "The future we want", specifically paragraph 88, and UNGA resolution 67/213 with the mandate "to expeditiously initiate the implementation of the provisions contained in paragraph 88 of the outcome document in their entirety."^{vii} Such implementation remains far from satisfactory, however, and, at the same time, must be stepped-up.

To be sure, UNEA Decision 4/2, "[d]eeply concerned about the low progress made in several areas in the implementation of paragraph 88," has called for an action plan to fully implement paragraph 88 of the Rio+20 outcome document, which is underway under the CPR roadmap. Nonetheless, the consultation **should assess the need to develop goals, targets (benchmarks and specific dates for completion) and indicators**, along the lines of the Sustainable Development Goals (SDGs) and Biodiversity targets, for the following key elements:^{viii}

- **Funding:** To secure, stable, adequate and increased financial resources from the regular budget of the United Nations and voluntary contributions to fulfil its mandate;
- **Empowerment:** To enhance the voice of UNEP and its ability to fulfil its coordination mandate within the United Nations system;
- **Science:** To promote a strong science-policy interface, building on existing international instruments, assessments, panels and information networks, and effectively deliver it to support informed decision-making;
- **Information:** To disseminate and share evidence-based environmental information and raise public awareness on critical as well as emerging environmental issues;
- **Capacity-building:** To provide capacity-building on access to technology **and on the environmental rule of law**;
- **Consolidation:** To progressively consolidate headquarters functions in Nairobi, as well as strengthen its regional presence; and
- **Stakeholders:** To ensure the **meaningful** and active participation of all relevant stakeholders and the effective engagement of civil society.

Most of all, increased funding is "critical for UNEP's visibility, credibility and ownership of the activities that contribute to the execution of its mandate."^{ix} Furthermore, with adequate funding UNEP can help Member States build back better after the pandemic to increase resilience to future crises as set forth in UNEP's 4-prong response plan for "Working with the environment to protect people: UNEP's Covid-19 response."^x Indeed, UNEP is uniquely positioned to support "[g]reening the recovery efforts [that] can increase resilience to future crises by ensuring a healthy environment that backs healthy people."^{xi}

Specific answers to some of the other questions posed in the Co-facilitators Outline can also be found in the sections below.

1.2 SHARING INFORMATION AMONG LEADING SCIENTIFIC, TECHNICAL & TECHNOLOGICAL BODIES (Recommendation 9)

In accordance with UNGA resolution 2997 (XXVII)^{xii}, UNEP and UNEA (previously the Governing Council of UNEP) have encouraged assessments and sharing mechanisms^{xiii} to input knowledge and advice to Member States, the UN System, and bodies of MEAs on global environmental issues. Adopted resolutions, such as UNEA resolution 4/23, on the science-policy interface emphasize the role of such assessments. However, “[t]he extent to which UNEP is delivering on its science-policy mandate has been questioned, due to the lack of core funding.”^{xiv} Thus, increased funding for this vital purpose is the number one priority.

The second priority, due to the pandemic is to encourage and facilitate improved science and policy options to better understand and respond to zoonotic threats by designing prevention, risk and response programmes.^{xv} A third priority is connecting science and policy through networks and platforms at all levels can be achieved by creating or improving UNEP’s and MEAs’ clearing-house mechanisms and by harnessing artificial intelligence and “big data” – including decentralized open-access, web-based platforms, and collaborative spaces for users to interact and engage – in open and transparent ways. Attention should be devoted to how such clearing-house mechanisms, and platforms should link scientific and policy-related databases, and facilitate data integration, to improve interdisciplinary and cross-cutting approaches.

To develop and test prototypes, many of which are underway, ICEL is participating with Odyssey Momentum on applications of artificial technology to enhance environmental policy and law (“sovereign nature”, <https://www.odyssey.org/hackathon-2020-challenge-iucn-icel-protecting-marine-biodiversity/>), within the context of the High Seas, and a case study of the Sargasso Sea (in cooperation with the Sargasso Sea Commission).^{xvi} Needed for that are: 1) open access to a full data-spectrum and the integration of these datasets, supporting all authorities and stakeholders to take proper conservation measures, and 2) consistent and coordinated governance, ensuring the execution of necessary measures.

Fourth, already being discussed under the CPR Review Process for enhancing cooperation between UNEP/UNEA and the MEAs/COPs:^{xvii}

- Bring together the heads of global environmental assessments and subsidiary scientific and technology bodies of the multilateral environmental agreements to discuss emerging environmental challenges and identify synergistic solutions.^{xviii}
- Promote thematic dialogues between chairs of scientific advisory bodies or implementation committees to provide a strong science-policy input to UNEA and the High-level Political Forum on Sustainable Development (HLPF), including convening regular meetings or teleconferences of the chairs of the scientific advisory bodies or implementation committees by thematic clusters. These meetings could help identify policy areas of common interest among UNEP and MEAs for advancing the implementation of SDGs.^{xix} Such meetings should be open to the participation of relevant stakeholders and civil society.

1.3 COORDINATING MEAs (Recommendations 10 - 13)

To start, it is worth noting that the issue of coordination and effective implementation of MEAs quickly gained constructive consensus in the consultations leading to UNGA resolution 73/333. There is “potential for overlap and conflict, institutional and policy incoherence and increased financial and administrative

burdens on States parties.”^{xx} Further, the severity of the state of the environment, evidences the critical need for coherence within the MEAs.^{xxi} Underscored in the Secretary-General’s Report, “[t]he **proliferation of multilateral environmental agreements and the resultant distinct and separate mandates ignore the unity, interconnectedness and interdependence of the Earth’s ecosystem.**”^{xxii}

There is a clear need for the preparation of an action plan to fully implement paragraph 89 of the Rio+20 outcome document, by all MEAs and then coordinated between them, like the action plan for full implementation paragraph 88 under UNEA resolution 4/2, paragraph 14. While some efforts have been made to ensure coherence and mutual supportiveness among MEAs, well summarized in the Information Note,^{xxiii} “[m]ore efforts could be made to establish or strengthen mechanisms to harness interlinkages and promote synergies for more effective implementation.”^{xxiv}

ICEL agrees with the background provided in the Information Note^{xxv} and with the proposition that “[i]nstitutional fragmentation and weak coordination between treaties can be addressed through various means, such as: (a) creating clusters and synergies between conventions; (b) mapping existing global and regional action plans and agreements to create an overview of coverage and identify interlinkages; (c) avoiding duplication of reporting and/or monitoring processes by using the same reporting channels and not creating additional burdens (“integrated reporting”); (d) sharing lessons learned and best practices; (e) developing implementation guidelines for multilateral environmental agreements; and (f) sharing information among the different scientific bodies that support the work of related multilateral environmental agreements.”^{xxvi}

Further, enhanced coordination is necessary not only within the field of international environmental law, but also between MEAs and environment-related instruments.^{xxvii} Such coordination must underscore due care not to undermine specific regulatory regimes, avoid duplication, and respect the interdependence of each instrument and body, and an explicit recognition that existing sector-specific agreements present specific law to be applied, *lex specialis*, and therefore have priority and should not be undermined.

ICEL also supports the consideration of concrete ideas being discussed under the CPR Review Process “to meaningfully promote cooperation, coherence and synergies between UNEP and MEAs, enabling UNEP to fulfil its mandate as the leading global environmental authority as well as facilitating the work of the governing bodies and secretariats of MEAs to enhance cooperation and collaboration among themselves within the scope of their respective mandates, as well as between themselves and the UNEP and UNEA, building on work already done.”^{xxviii} Such specific options include:^{xxix}

- Foster closer **[and regular]** dialogue and collaboration between UNEA and MEAs and their governing bodies. This could be done for example through their Chairs or members of their respective Bureaus by identifying mutual priorities for cooperation and for possible intergovernmental decisions that promote coherence and synergies on substantive issues.
- Mobilize MEAs participation in and contributions to UNEA, keeping in mind their respective mandates; organizing dedicated dialogue with MEAs could be explored, for example through the organization of an “MEA Day” during UNEA which would enable the MEA Chairs/Presidents or members of their respective Bureaus holding dialogue sessions on mutual priorities for cooperation that promote coherence and synergies on substantive issues.
- MEAs should be encouraged to share ideas for resolutions at UNEA and contribute to the implementation process.

In addition, there is a need to continue to improve the Information Portal on MEAs (InforMEA), including providing access to data, integration of datasets, and collaboration platforms, as noted above under Recommendation 9.^{xxx}

1.4 ENVIRONMENT MANAGEMENT GROUP (Recommendation 18)

The Recommendation to continue to strengthen system-wide inter-agency coordination on environment, responds to concerns voiced by many that the Environment Management Group (EMG) is “limited in effectiveness or scope.”^{xxxix} Coordination of 51 specialized agencies, programmes and organs of the UN system, including the secretariats of MEAs, is a monumental task.^{xxxii}

Since paragraph 88 of the Rio+20 outcome document calls for enhancing “the voice of UNEP and its ability to fulfill its coordination mandate within the UN system by strengthening UNEP engagement in key UN coordination bodies and empowering UNEP to lead efforts to formulate UN system-wide strategies on the environment,” aside from the action plan for implementation of paragraphs 88, and of 89, as suggested here, the consultations should consider calling for specific benchmarks and means for this challenging endeavor.

Four main weaknesses of the EMG have been identified that should be addressed at this juncture: lack of high-level political engagement, the negative perception of the EMG as an instrument of UNEP’s control, human and financial resource constraints, and lack of clarity of purpose and outcomes.^{xxxiii} In addition, the consultations should explore opportunities for leveraging the role of the EMG in mobilizing all MEAs and other EMG members in the implementation of the post-2020 frameworks for biodiversity and chemicals/waste,^{xxxiv} and other MEA-related action plans as well as the 2030 Sustainable Development Agenda.

2. MEANS OF IMPLEMENTATION

2.1 MEANS OF IMPLEMENTATION (Recommendation 7)

The level of ambition regarding means of implementation is a fundamental topic in the Recommendations. The provision of, and access to, means of implementation — such as financial resources, environmentally sound technologies and technical and institutional capacities — is the critical variable in the effective implementation of environmental commitments and compliance. But “[g]enerally, funding for implementation remains insufficient, unpredictable and incoherent, and varies considerably among the different regimes.”^{xxxv} As noted above, ICEL suggests that specific benchmarks and indicators are warranted for means of implementation.

ICEL submits that the lack of funding, further strained due to the Covid-19 pandemic, means that enhanced ambition will require resources at a scale comparable to what States have traditionally allocated to their defense agencies. Indeed, enhanced ambition regarding means of implementation is warranted to react, respond, strengthen resilience,^{xxxvi} and to deliver the 2030 Agenda for Sustainable Development, including support of One Health initiatives and UNEP’s 4-prong response for “Working with the environment to protect people: UNEP’s Covid-19 response.”^{xxxvii}

2.2 MAINSTREAM ENVIRONMENT INTO SECTORAL POLICIES AT ALL LEVELS (Recommendation 15)

The need to mainstream environment into sectoral policies and programs at all levels, including into national development and sustainable development plans continues to be a daunting implementation challenge. In 1992, Agenda 21, chapter 8, Integrating environment and development in decision-making, addressed the issue and recognized the lack of implementation and poor compliance with regulations and MEAs.^{xxxviii} It requires strengthening domestic laws and institutions and building up national capacity.^{xxxix} To address this issue, the consultation should consider encouraging country-level integrated reporting on the environmental rule of law, reporting on MEAs and on SDGs voluntary national reviews to the HLPF.

2.3 STAKEHOLDER ENGAGEMENT (Recommendation 16)

The consultation should consider, together with furthering implementation of paragraph 88 of the Rio+20 outcome document, initiating a systemic review of how to observe Rio Declaration Principle 10 on public participation in environment decision-making. In a world of social media, information technologies and artificial intelligence, it is possible also to engage stakeholders to co-create solution about environmental challenges.^{xl} Thus, the rules and opportunities for “active and meaningful engagement of all relevant stakeholders at all levels” require urgent attention not just by UNEP and UNEA, but by all the relevant organs and bodies of the UN System, including the Specialized Agencies, and other pertinent programmes and funds, as well as the Governing Bodies of MEAs. This is more urgent than ever due to the pandemic forcing virtual meetings and online platforms and requiring innovations in this field.

3. ENVIRONMENTAL LAW

3.1 PRINCIPLES OF INTERNATIONAL ENVIRONMENTAL LAW (Recommendation 8)

UNEP can assist Member States in further developing their understanding based on convergence and divergence of views. As noted in the Information Note^{xli} and in the U.N. Secretary-General’s Report:

- Principles of international environmental law are an important building block and their usage is widespread. Some are included in non-binding instruments, including political instruments, while others are enshrined in issue-specific multilateral environmental agreements that are legally binding. When enshrined in such agreements, the scope of the principles is confined to that particular multilateral environmental agreement.^{xlii}
- More generally, environmental principles also serve to supplement or complement more specific rules. The general character of the principles permits their application to the continuously evolving interrelationships between human activity and the environment.^{xliii}
- Several international courts and tribunals have confirmed the existence of rules of customary international law relating to environmental protection, in particular the obligation to prevent environmental harm beyond national jurisdiction, the performance of due diligence, the duty to conduct an environmental impact assessment and the obligation of reparation for environmental damage.^{xliv}

- There are important deficiencies with respect to principles of international environmental law, in particular with respect to their content and legal status. There are instances where there is no clarity as to the nature and content of a principle, or no judicial consensus as to its applicability, or no recognition in binding legal instruments, or all of the above. The degree of legal uncertainty surrounding many of these principles has a direct and indirect impact on the predictability and implementation of sectoral environmental regimes.^{xlv}
- There is a need to further clarify the principles of environmental law, without prejudice to the legal developments already achieved in the issue-specific contexts of various multilateral environmental agreements.^{xlvi}

While concerns remain on whether “[a] comprehensive and unifying international instrument clarifying all the principles of environmental law would contribute to making them more effective and strengthen their implementation” and whether “[a] comprehensive and unifying international instrument that gathers all the principles of environmental law could provide for better harmonization, predictability and certainty,”^{xlvii} acknowledging broad consensus on guaranteeing not to undermine existing instruments, bodies and processes, there is no risk associated with compiling and refining existing principles.

The consultations should address the way forward to consider these convergence and divergence views, perhaps under a dedicated working group. It is necessary to clarify which principles are widely accepted and which are emerging. Of the former, it would be appropriate to consider where more than one expression of the principle is found and provide for better harmonization, predictability and certainty. Some emerging principles may be important enough to acknowledge as the progressive development of the law is necessary as real-world conditions change. Thus, ICEL observes that it would be effective and productive to employ the two-tier approach to consider widely applicable and agreed-upon principles, and clarifying emerging ones, such as the non-regression principle.

In this respect, ICEL has provided Member States with the tools that enable overview of existing commitments in a set of Charts (“ICEL Charts”) available at <https://libraryguides.law.pace.edu/icel> (see “Analysis of Adoption and implementation”).^{xlviii} The Charts identify general principles that have already been adopted within MEAs and regional agreements,^{xlix} and those that underlie the SDGs.

ICEL agrees that the *UNEP First Global Report on the Environment Rule of Law*, published in 2019, provides, in that context, information on the status of implementation of a number of environmental principles, including emerging principles.^l This groundbreaking report furthers UNEP’s mandate: “To lead the United Nations system and support national Governments upon their request in the development and implementation of environmental rule of law.”^{li}

Similarly, ICEL underscores the need for the building blocks that result from the consultations to include the recognition of principles on human rights and the environment, including the three sets of duties: procedural obligations; substantive obligations; and obligations relating to those in vulnerable situations. That is, the 2018 framework principles on the main human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, by the Special Rapporteur on human rights and the environment.

Recognition of the right to a healthy environment has been acknowledged since the 1972 Stockholm Conference. Many countries recognize such right as a constitutional statutory right.^{lii} The building blocks should include how to move forward to finally “agree on a legal instrument that reflects the current

regional agreements and which include recognition of the right to a quality environment, with focus both on the substantive elements as well as on robust means of implementation. The barriers to proclaiming a clearly articulated and unambiguous right to a quality environment at a global level are falling away. The question is now not if, but when, a global instrument containing such a right will be opened for signature and eventually enter into force.”^{liii}

Finally, on the work of the International Law Commission (ILC), the consultations should take note of the ongoing work on general principles of law that will take various ILC sessions, beyond 2021 or 2020. The ILC decided, at its seventieth session, to include this topic in its programme of work to shed light on various aspects of this source of international law and provide guidance to States, international organizations, courts and tribunals and all others that may be called upon to deal with general principles of law. The first debate on the topic took place within the ILC and the UNGA Sixth Committee in 2019.^{liv}

ICEL follows closely the work of the ILC on the progressive development of international law and its codification. Indeed, on May 30, 2019, ICEL held an informal discussion on the Recommendation with members of the ILC. The work of the ILC is different from the processes by which States cooperate to define how to advance sustainable development, however. Ultimately, the ILC reports directly to UNGA.

3.2 IMPLEMENTING LAWS ON NATIONAL/REGIONAL LEVEL(Recommendation 14)

Aside from means of implementation, strengthening the implementation of both international and domestic environmental law has been identified as the fundamental element to guarantee the effective protection of the environment and achieve the SDGs. National implementation is constrained in many countries mostly by lack of appropriate national legislation, financial resources, environmentally sound technologies and institutional capacities.^{lv} Implementation issues include “knowledge gaps; a lack of adequate means of implementation, such as finance, capacity-building or technology; the need for facilitation for compliance; a lack of coordination between relevant government departments as well as with other sectors; insufficient monitoring and law enforcement; a lack of political will; and the inadequate engagement of different stakeholders, such as civil society and women’s organizations.”^{lvi} Most of these issues, and possible responses, have been discussed above in relation to other Recommendations.

3.4 MONTEVIDEO PROGRAMME V (Recommendations 17)

ICEL recommends streamlining global coordination and to set a specific dedicated funding goal for the Montevideo Programme V. The Montevideo program should be expanded to facilitate coordination of the national implementation efforts of the MEAs. ICEL further recommends that, as part of streamlined global coordination of Montevideo V, consideration be given to strengthen efforts, and provide adequate funding, for the databases being created under the MEAs about national implementation of the SDGs and MEA undertakings.

Respectfully submitted

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- ⁱ See Co-facilitators' Document (June 2020) and Information Note (June 2020), Informal Consultation under General Assembly Resolution 73/333 of 30 August 2019, at <https://www.unenvironment.org/events/cpr-meetings/first-informal-substantive-consultation-meeting-unga-resolution-73333>.
- ⁱⁱ Global Environmental Outlook 6 at <https://www.unenvironment.org/resources/global-environment-outlook-6>, Summary for Policy-Makers. See also, Global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES)(May 2019), available at <https://www.ipbes.net/global-assessment-report-biodiversity-ecosystem-services>. See also, Global Land Outlook produced by the UN Convention to Combat Desertification Secretariat in 2017, available at <https://knowledge.unccd.int/publication/full-report>; see also the first World Ocean Assessment, available at https://www.un.org/Depts/los/global_reporting/WOA_RegProcess.htm.
- ⁱⁱⁱ A/RES/72/277, available at <https://undocs.org/A/RES/72/277>.
- ^{iv} A/RES/73/333, available at <https://undocs.org/en/A/RES/73/333>.
- ^v See UN Secretary-General's Report on "Gaps in International Environmental Law and Environment-Related Instruments: Towards a Global Pact for the Environment" (A/73/419, 30 November 2018).
- ^{vi} ICEL was founded in New Delhi in 1969 and is constituted under Article 60 of the Swiss Civil Code (Canton of Geneva). It has been accredited to the UN Economic and Social Council (ECOSOC) since 1973, and maintains representatives in Bonn, Geneva, Nairobi, and New York.
- ^{vii} UN Secretary-General's Report (A/73/419), para. 78; Information Note (June 2020), para. 25.
- ^{viii} Niko Urho, Maria Ivanova, Anna Dubrova and Natalia Escobar-Pemberthy, *International Environmental Governance* (Nordic Council of Ministers), p. 40, available at <https://www.norden.org/en/publication/international-environmental-governance>.
- ^{ix} Id.
- ^x UNEP Working with the environment to protect people: UNEP's Covid-19 response (2020), available at <https://www.unenvironment.org/resources/working-environment-protect-people-uneps-covid-19-response>.
- ^{xi} Id.
- ^{xii} A/RES/2997(XXVII), available at [https://undocs.org/en/A/RES/2997\(XXVII\)](https://undocs.org/en/A/RES/2997(XXVII)).
- ^{xiii} See <https://www.unenvironment.org/resources/global-environment-outlook-6>, Summary for Policy-Makers; <https://sustainabledevelopment.un.org/globalsdreport>; <https://www.ipcc.ch/>; <https://www.ipbes.net/global-assessment-report-biodiversity-ecosystem-services>; <https://knowledge.unccd.int/publication/full-report>; https://www.un.org/Depts/los/global_reporting/WOA_RegProcess.htm; <https://resourcepanel.org/>.
- ^{xiv} See *International Environmental Governance*, supra, p. 47.
- ^{xv} UNEP Working with the environment to protect people: UNEP's Covid-19 response (2020), supra.
- ^{xvi} See also <http://www.sargassoseacommission.org/>.
- ^{xvii} CPR-document "Enhancing cooperation between UNEP/UNEA and the MEAs/COPs" (February 2020, as revised June 2020).
- ^{xviii} Id, footnote 2.
- ^{xix} Id, para 11.
- ^{xx} UN Secretary-General's Report (A/73/419), supra, para. 80.
- ^{xxi} See Ivanova, Maria. "Global governance in the 21st century: rethinking the environmental pillar" Stakeholder Forum (2011).
- ^{xxii} UN Secretary-General's Report (A/73/419), supra, para. 80 (emphasis supplied)
- ^{xxiii} Information Note, supra, para. 40-52.
- ^{xxiv} UN Secretary-General's Report (A/73/419), supra, para. 80.
- ^{xxv} Information Note, supra, para. 40-52.
- ^{xxvi} UN Secretary-General's Report (A/73/419), supra, para. 83 (noting that "Potential conflicts between treaty regimes can be managed by using legal means, including conflict clauses, mutual supportiveness or the application of the general rule of treaty interpretation contained in article 31, paragraph 3 (c), of the Vienna Convention on the Law of Treaties.").
- ^{xxvii} Id., para. 81.

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- xxviii CPR-document “Enhancing cooperation between UNEP/UNEA and the MEAs/COPs” (February 2020, as revised June 2020), Introduction, p. 2. This discussion paper benefits from the contributions made by the secretariats of BRS, CBD, CMS, CITES, Minamata and the Vienna Convention/Montreal Protocol.
- xxix Id., footnote 2. See also CPR-document “Converging elements of consensus” (version V, 8 July 2020), para. 6
- xxx Information Note, supra, para. 52.
- xxxi UN Secretary-General’s Report (A/73/419), supra, para. 81. See *International Environmental Governance*, supra, p. 41.
- xxxii See UNGA resolution 53/242, Governing Council decision 27/5 and UNEA resolution 1/11.
- xxxiii See *International Environmental Governance*, supra, p. 42.
- xxxiv CPR-document “Enhancing cooperation between UNEP/UNEA and the MEAs/COPs” (February 2020, as revised June 2020), p. 2.
- xxxv UN Secretary-General’s Report (A/73/419), supra, para. 88 (emphasis supplied).
- xxxvi Nicholas Robinson, Principle of Resilience, in *Global Pact for the Environment, Legal Foundations*, p. 137. Cambridge University, C-EENRG report 2019-1, March 2019.
- xxxvii UNEP Working with the environment to protect people: UNEP’s Covid-19 response (2020), supra.
- xxxviii Agenda 21 (chapter 8).
- xxxix UNEP, *Possible Elements for a Programme in the area of Environmental Law for a Specific Period Beginning in 2020*, UNEP/ENV.LAW/MTV.4/FP.3, Geneva, 12-14 September 2018.
- xl UN Secretary-General’s Report (A/73/419), supra, para. 84 (citing two models: The Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention 1998) provides the broadest latitude for public participation through procedural rights granted to non-State actors by States parties as well as the opportunity to participate in the Convention’s non-compliance mechanism. A similar approach was adopted in the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement 2018).
- xli Information Note, supra, para. 28.
- xlii UN Secretary-General’s Report (A/73/419), supra, para. 9.
- xliii Id., para. 10.
- xliv Id., para. 101.
- xlvi Id., para. 102.
- xlvii Id.
- xlviii Id.
- xlviii In cooperation with the Vance Center of the New York City Bar and the international law firm of White & Case.
- lix They include: the African Union (AU), the Association of South East Asian States (ASEAN), the Caribbean Community (CARICOM), the Commonwealth of Independent States (CIS), the League of Arab States (Arab League), the Organization of American States (OAS), the South Asian Cooperative Agreement (SACEP) and the Pacific Islands Forum.
- ¹ Information Note, supra, para. 30. See Environment Rule of Law, First Global Report, UNEP (2019), available at https://wedocs.unep.org/bitstream/handle/20.500.11822/27279/Environmental_rule_of_law.pdf?sequence=1&isAllowed=y.
- li See Governing Council decision 27/9 of 22 February 201; Information Note, supra, para. 19 (“..with attention at all levels to mutually supporting governance features, including information disclosure, public participation, implementable and enforceable laws, and implementation and accountability mechanisms including coordination of roles as well as environmental auditing and criminal, civil and administrative enforcement with timely, impartial and independent dispute resolution.”).
- lii See Environment Rule of Law, First Global Report, UNEP (2019), supra, at 154-161.
- liii See Ben Boer, “Environmental principles and the right to a quality environment”, in *Principles of Environmental Law*, Elgar Encyclopedia of Environmental Law, Volume VI, p. 73.
- liv See Status Summary at https://legal.un.org/ilc/summaries/1_15.shtml.
- lv UN Secretary-General’s Report (A/73/419), supra, para. 111.
- lvi Id., para. 86.