

# **Fifth Montevideo Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme V)**

**Seventh Meeting of the Steering Committee for Implementation  
15:00-18:00 East Africa Time (UTC + 3), 26 and 27 February 2024  
United Nations Office in Nairobi – UNEP Law Division Meeting Room (Hybrid)**

**Agenda item 5(c): Options paper on legal responses to climate change**

## **Options for clearly defined priority areas to combat the climate crisis**

### **Introduction**

1. At the virtual segment of the first global meeting (6 – 9 June 2021), national focal points to the Fifth Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme V), identified three priority areas for implementation of the Programme that is legal responses to address: (a) the pollution crisis, (b) the climate crisis and (c) the biodiversity crisis, which are aligned with UNEP's medium-term strategy for 2022-2024. The three thematic areas are supplemented by cross-cutting activities, and for each thematic area, national focal points identified priority areas.

2. Under thematic areas (b) and (c) above, national focal points requested the secretariat to prepare reports for clearly defined priority areas to address the climate and biodiversity crises respectively. On thematic area (b), national focal points specifically requested the secretariat to prepare a report on options for clearly defined priority areas to combat the climate crisis that would avoid duplicating or disrupting global climate change negotiations.

3. The present option paper is developed in response to the above mandate provided to the Montevideo Programme V's secretariat. It outlines the consultations process that sought proposals on the options papers and a synthesized summary of the core proposed options. The preliminary list of options will be considered at the seventh meeting of the steering committee for implementation to be held on 26 and 27 February 2024 and subsequently by the national focal points at the second global meeting of national focal points to be held in Nairobi, from 3 to 5 June 2024.

### **Methodology**

4. In 2023, the Montevideo Programme V secretariat held regional consultations for: the Asia-Pacific, West Asia and Central Asia regions, with possibility for remote participation from the Balkans, Eastern Europe and South Caucasus regions, during the 3rd ASEAN Environmental Law Conference (Bangkok, 15 – 18 August 2023); the Africa region during the Fifth Association of Environmental Law Lecturers in African Universities Scientific Conference (Nairobi, 21 – 23 August 2023, focusing on climate change) and the Workshop on the Implementation of Biodiversity, Chemicals and Waste Multilateral Environmental Agreements (Bugesera, Rwanda, 29 – 31 August 2023, focusing on biodiversity); and for the Latin America and the Caribbean region (Panama City, 25 – 26 September 2023).

5. The convening of the consultations in parallel with regional conferences on environmental law and meetings of national focal points served a dual purpose of minimising costs and capitalizing on the availability of a diverse group of relevant stakeholders, including from governments, academia, legal education institutions, youth, and civil society.

6. The consultations followed a similar format, where participants were divided into groups, each group focusing on a pre-determined area of intervention that aligns to the objectives of the Montevideo Programme V:

- **Ensuring effective legal frameworks to address climate change** – Activities which provide practical guidance, tools, innovative approaches and resources, including effective law models, as well as best practices and model indicators to countries for the effective and inclusive development and implementation of environmental law.
- **Awareness-raising initiatives at all levels** – Activities which support environmental law awareness-raising initiatives at different levels.
- **Enhanced capacity-building for increased effectiveness of environmental law** – Activities which encourage and facilitate education and training in environmental law, with a view to empowering people and communities and strengthening institutional capacity of countries to address environmental issues.
- **Research and knowledge development** – Activities which encourage research, including studies and reports on emerging environmental issues and the relationship between environmental law and other, related legal fields.

The present paper categorises the proposed options under these areas. To broaden participation, the secretariat also developed and disseminated online questionnaires to gather information.

#### Outcomes of regional consultations

7. This section presents the outcomes of these regional consultations on key priority areas which fall within the mandate of the Montevideo Programme V that were raised during the in-person consultations and captured by online questionnaires. The section will highlight priority areas common to all regions, as well priority areas that were uniquely raised in specific regional consultations. Priority areas have been categorized according to the nature of the intervention suggested.

#### Issues common to all regions

8. Areas raised by participants in two or more regions are listed below.<sup>1</sup>

#### Common priority areas

<b>Ensuring effective legal frameworks to address climate change</b>	<ul style="list-style-type: none"> <li>• Strengthen access and procedural rights to enable greater representation, redress, broader legal standing, and transparency and accountability in climate change governance.<sup>2</sup></li> <li>• Improve protections for environmental defenders including through the development of anti-Strategic Lawsuit Against Public Participation (SLAPP) legislation.</li> <li>• Strengthen environmental impact assessment laws.</li> <li>• Establish fair and effective enforcement mechanisms for violations of environmental law.</li> <li>• Support the development of frameworks for carbon markets.</li> </ul>
<b>Awareness-raising initiatives</b>	<ul style="list-style-type: none"> <li>• Strengthen understanding and awareness of the role of specialised courts and tribunals and legal clinics on environmental law.</li> <li>• Raise knowledge and awareness of parliamentarians on the importance of legislative frameworks in addressing climate change.</li> </ul>
<b>Enhanced capacity-building</b>	<ul style="list-style-type: none"> <li>• Provide capacity-building opportunities for legal professionals, including prosecuting and defence lawyers, public interest lawyers, national human rights commissions, bar associations, and law societies, the judiciary, and members of</li> </ul>

<sup>1</sup> No common issues were identified under the research and knowledge development category.

<sup>2</sup> Environmental governance refers to the institutional and legal architecture needed to make environmental goals and commitments a reality. Supporting countries in abiding by strong legal and institutional frameworks that effectively achieve environmental goals in the context of sustainable development at the global, regional and national levels is part of UNEP core work. (see [For people and planet: the United Nations Environment Programme strategy for 2022–2025 to tackle climate change, loss of nature and pollution](#), UNEP/EA.5/3/Rev.1)

	<p>environmental courts and tribunals to improve understanding of national and international climate and environment legal frameworks, linkages between climate change and sectoral legislation, and climate litigation.</p> <ul style="list-style-type: none"> <li>• Provide capacity-building opportunities on climate governance to government institutions including ministries of environment, justice, industry, public health, forestry, energy, and higher education, the Attorney General's office, national government agencies and local governments including through support to strengthening mandates and coordination on climate change.</li> <li>• Improve capacity of law enforcement officers including environmental police and customs officials on implementing climate-related legislation.</li> <li>• Support capacity of national focal points to contribute to the implementation of the Montevideo Programme V (especially in Africa and LAC regions).</li> <li>• Strengthen capacity of civil society including Indigenous Peoples, students, women and children including youth environmental forums to better understand environment-related rights.</li> </ul>
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**Cross-cutting areas**

9. Participants in all regions emphasized the need to integrate the following cross-cutting considerations in the implementation of thematic area (b):

- coordinated and intersectoral approaches to climate change should complement other areas of activity within UNEP and throughout the United Nations system;
- the need to integrate culture and traditional, indigenous and community knowledge in the implementation of priority areas;
- the need for inclusive representation of minorities and most vulnerable, and marginalized groups, including Indigenous Peoples, marginalized groups, local communities, women, youth, children, and persons with disabilities;
- the need for inclusive and innovative communication techniques tailored to specific stakeholder beneficiaries, including through the use of local languages;
- the need to ensure that priority actions are tailored to the unique needs of the region and countries and consider socio-economic and geographical situations; and
- the need to ensure that the private sector is included as stakeholders as appropriate.

**Asia and the Pacific (with remote participation from the Balkans, Eastern Europe and the South Caucasus)**

10. In collaboration with the UNEP Regional Office for Asia and the Pacific, and with contributions from the Regional Offices for West Asia and Europe, the secretariat organised the Fifth Montevideo Environmental Law Programme Regional Meeting and Third ASEAN Environmental Law Conference in Bangkok (hybrid) from 15 to 18 August 2023. The meeting was attended by national focal points from the regions and other stakeholders representing academia and research institutions, civil society, and law schools, who participated both online and in-person.

**Key priority areas identified**

<p><b>Ensuring effective legal frameworks to address climate change</b></p>	<ul style="list-style-type: none"> <li>• Improve constitutional protection for environment-related rights.</li> <li>• Improve the use and application of citizen science.<sup>3</sup></li> <li>• Enhance emphasis on corporate social responsibility to include private sector liability for environmental violations.</li> <li>• Support the development of national funds to address climate change.</li> <li>• Support the development of strong regional mechanisms to address environmental challenges.</li> </ul>
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<sup>3</sup> This refers to the involvement of citizens in scientific research and/or knowledge production (see Fritz, S., See, L., Carlson, T. et al. Citizen science and the United Nations Sustainable Development Goals. Nat Sustain 2, 922–930 (2019). <https://doi.org/10.1038/s41893-019-0390-3>).

<b>Awareness-raising initiatives</b>	<ul style="list-style-type: none"> <li>• Improve awareness of civil society on environment and climate-related human rights.</li> </ul>
<b>Enhanced capacity-building</b>	<ul style="list-style-type: none"> <li>• Develop curriculums on key issues of governance for primary and secondary education.</li> <li>• Integrate mandatory training on environmental law in legal education.</li> <li>• Provide support to countries to enable the prosecution of transboundary environmental harms.</li> <li>• Strengthen the capacity of the media to cover human rights and environmental issues.</li> </ul>
<b>Research and knowledge development</b>	<p>The following climate-related areas of concern were identified as requiring further knowledge development<sup>4</sup>:</p> <ul style="list-style-type: none"> <li>• Glacial melting;</li> <li>• Sea level rise;</li> <li>• Climate-induced migration;</li> <li>• Climate-induced poverty;</li> <li>• Carbon taxes;</li> <li>• Climate change and air pollution linkages; and</li> <li>• Green finance mechanisms.</li> </ul> <p>Additional stakeholder input would be needed to identify specific areas of intervention that would contribute to the Montevideo Programme V.</p>

## Africa

11. In collaboration with the UNEP Africa Office, the secretariat organised a session on Regional Consultations on Fifth Montevideo Environmental Law Programme during the 5<sup>th</sup> Association of Environmental Law Lecturers in African Universities (ASSELLAU) Scientific Conference and General Assembly which took place from 21 to 23 August 2023 in Nairobi. National focal points from the region participated in person, together with university academics in law from the African region.

### Key priority areas identified

<b>Ensuring effective legal frameworks to address climate change</b>	<ul style="list-style-type: none"> <li>• Support the development of model laws on environmental issues.</li> <li>• Support countries to improve existing regional or sub-regional agreements related to climate change.</li> </ul>
<b>Awareness-raising initiatives</b>	<ul style="list-style-type: none"> <li>• Develop knowledge materials and tools to support public participation and access to information on climate change.</li> <li>• Focus on human rights as an accountability framework to strengthen public interest climate change litigation.</li> </ul>
<b>Enhanced capacity-building</b>	<ul style="list-style-type: none"> <li>• Support engagement of the private sector, including through supporting corporate social responsibility on climate change.</li> </ul>
<b>Research and knowledge development</b>	<ul style="list-style-type: none"> <li>• Strengthen the role of African universities in knowledge development on climate governance.</li> <li>• Develop education and awareness raising materials and reports on climate governance, including on new or emerging areas or concepts in climate change governance, among others.</li> <li>• Explore linkages between climate change, human security and migration, as well as the impacts on communities and the means of addressing this challenge.</li> </ul>

## Latin America and the Caribbean

12. In collaboration with the regional sub-programme coordinator for environmental governance based in the UNEP Latin America and the Caribbean Office, the secretariat organised the Fifth Montevideo Environmental Law Programme Regional Conference on Legal Responses to Combat the

<sup>4</sup> Final priority areas selected may include only those areas or activities which fall within the mandate of the Montevideo Programme V.

Three Planetary Environmental Crises in Latin America and the Caribbean on 25 and 26 September 2023 in Panama City. National focal points from the region participated in person, with in-person and online participation from law academics from Universities in the Latin American region, other academic and research institutions, and civil society.

**Key priority areas identified**

<b>Ensuring effective legal frameworks to address climate change</b>	<ul style="list-style-type: none"> <li>• Support countries in integrating international treaty obligations in national law and updating legislative frameworks.</li> <li>• Support the development of legislative measures for climate change mitigation, namely through establishing emission reduction targets and carbon markets.</li> <li>• Enhance the role of data and information in climate change governance:             <ul style="list-style-type: none"> <li>○ Strengthen national and regional climate information systems and mechanisms for climate data analysis.</li> <li>○ Support mechanisms for the use of data to inform public policy.</li> <li>○ Support mechanisms to enable access to climate information and data of the judiciary.</li> </ul> </li> </ul>
<b>Awareness-raising initiatives</b>	<ul style="list-style-type: none"> <li>• Build knowledge and awareness of all relevant stakeholders on the importance and role of specialized courts and tribunals in addressing environmental issues.</li> <li>• Build stakeholder awareness and understanding of human rights-based approaches to climate change.</li> <li>• Improve access to and dissemination of environmental legislation.</li> </ul>
<b>Enhanced capacity-building</b>	<ul style="list-style-type: none"> <li>• Strengthen the capacity of enforcement officials to investigate environmental crimes.</li> </ul>
<b>Research and knowledge development</b>	<ul style="list-style-type: none"> <li>• Improve knowledge of the role of legal frameworks in promoting a circular economy, energy efficiency, improved technology and sustainable transportation.</li> </ul>

**Options for priority areas**

13. The following outlines options for priority areas under thematic area (b) based on the outcomes of the regional consultations and categorised under the four areas of intervention.

**Ensuring effective legal frameworks to address climate change**

- Support countries in developing, strengthening and implementing legislation to better integrate climate change mitigation and adaptation considerations and related international obligations.
- Support countries in improving procedural and substantive rights related to the environment and climate change, with particular emphasis on vulnerable groups and environmental human rights defenders.
- Support countries to improve legislative and institutional frameworks for improved institutional coordination among government agencies, and more effective monitoring and enforcement of climate change-related legislation.
- Enhance the role of data and information in climate governance.

**Awareness-raising initiatives at all levels**

- Enhance legal education at all levels on environmental and climate change law as appropriate.
- Improve access to and dissemination of national climate-related legislation.

**Enhanced capacity-building for increased effectiveness of environmental law**

- Provide capacity building to all climate change stakeholders on climate governance, including Montevideo V national focal points and government agencies including enforcement officials,

parliamentarians, the judiciary including environmental courts and tribunals, lawyers and bar associations, civil society and the private sector.

- Develop targeted regional capacity building initiatives, as appropriate, aimed at strengthening implementation of regional agreements/initiatives related to climate change, strengthening efforts to tackle transboundary harms, targeting regional stakeholders.

**Research and knowledge development**

- Deepen knowledge on emerging issues of climate-related law.
- Deepen knowledge on linkages between climate change, human security and migration, impacts on communities and the means of addressing this challenge.
- Strengthen the role of academia in supporting research on climate governance, with particular emphasis on the representation of universities in developing countries.