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Fifth Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme V): delivering for people and the planet
Second global meeting of national focal points
Nairobi, 3–5 June 2024
Item 4 (b) of the provisional agenda*

Implementation of the Fifth Programme for the Development and Periodic Review of Environmental Law: priority areas for implementation

Options for clearly defined priority areas to combat the climate crisis

Note by the secretariat

I. Introduction

1. During the online segment of the first global meeting of national focal points for the Fifth Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme V) (2–4 June 2021), the national focal points identified three thematic areas for implementation of the Programme, specifically, legal responses to address: (a) the pollution crisis; (b) the climate crisis; and (c) the biodiversity crisis. Aligned with the medium-term strategy of the United Nations Environment Programme (UNEP) for 2022–2025, 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), national focal points requested the secretariat to prepare reports for clearly defined priority areas to address the climate and biodiversity crises, respectively. For thematic area (b), the national focal points requested that a report be prepared on options for clearly defined priority areas for legal responses to combat the climate crisis that would avoid duplicating or disrupting global climate change negotiations.

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

* UNEP/Env.Law/MTV5/GNFP.2/1.

II. Methodology

4. In 2023, the Montevideo Programme V secretariat held regional consultations for Asia-Pacific, West Asia and Central Asia States, with the possibility of remote participation from Balkan, Eastern European and South Caucasus States, during the Montevideo Programme V regional meeting and third Environmental Law Conference of the Association of Southeast Asian Nations (ASEAN) (Bangkok, 15–18 August 2023); for African States during the fifth scientific conference and general assembly of the Association of Environmental Law Lecturers in African Universities (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 Latin America and Caribbean States at the Montevideo Programme V regional conference on legal responses to combat the triple planetary crisis in Latin America and the Caribbean (Panama City, 25 and 26 September 2023).

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

6. The consultations followed a similar format, with participants divided into groups and each group focusing on a predetermined area of intervention that aligned with the Montevideo Programme V objectives:

(a) *Ensure that effective legal frameworks exist to address climate change:* activities that provide countries with practical guidance and innovative approaches, including effective law models, good practices and model indicators for the effective and inclusive development and implementation of environmental law;

(b) *Enhance capacity-building and awareness to increase the effectiveness of environmental law:* activities that encourage and facilitate education, training and awareness-raising in the area of environmental law, with a view to empowering people and communities and strengthening the institutional capacity of countries to address environmental issues;

(c) *Research and knowledge development:* activities that encourage research, including studies and reports on emerging environmental issues and the relationship between environmental law and related legal fields.

7. The present paper categorizes the proposed options in these three areas. To broaden participation, the secretariat also developed and disseminated online questionnaires to gather additional information.

III. Outcomes of the regional consultations

8. This part sets out the outcomes of the regional consultations on key priority areas falling within the mandate of Montevideo Programme V that were identified during the in-person consultations and in online questionnaires. The presentation highlights priority areas common to all regions, as well priority areas only flagged during specific regional consultations. The priority areas have been categorized according to the three predetermined areas of intervention listed in paragraph 6 above, specifically: (a) ensuring that effective legal frameworks exist to address climate change; (b) enhancement of capacity-building and awareness to increase the effectiveness of environmental law; and (c) research and knowledge development.

A. Common priority areas

9. Priority areas identified by participants in two or more regions are listed in table 1.

Table 1
Key priority areas identified in two or more regions

Category	*Key priority areas*
1. Strengthen legal and institutional frameworks to address climate change	• Strengthen access and procedural rights to enable greater representation, redress, broader legal standing, and transparency and accountability in climate change governance.[1] • Improve protections for environmental defenders, including through the development of anti-strategic litigation against public participation (SLAPP) legislation. • Strengthen environmental impact assessment laws. • Establish fair and effective enforcement mechanisms for violations of environmental law. • Support the development of frameworks for carbon markets.
2. Enhance capacity-building and awareness to increase the effectiveness of environmental law	• Provide capacity-building opportunities for legal professionals, including prosecution and defence lawyers, public interest lawyers, national human rights commissions, bar associations and law societies, the judiciary and members of 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. • Provide capacity-building opportunities on climate governance to government institutions, including ministries of environment, justice, industry, public health, forestry, energy, and higher education, attorney general's offices, national government agencies and local governments, including through support to strengthen mandates and coordination on climate change. • Improve the capacity of law enforcement officers including environmental police and customs officials on implementing climate-related legislation. • Support the capacity of national focal points to contribute to the implementation of Montevideo Programme V (especially among African and Latin American and Caribbean States). • Strengthen the capacity of civil society, including Indigenous Peoples, students, women and children, including youth environmental forums, to better understand environment-related rights. • Strengthen understanding and awareness of the role of specialized courts and tribunals and legal clinics on environmental law for all stakeholders. • Enhance parliamentarians' knowledge and awareness of the importance of legislative frameworks in addressing climate change.

B. Cross-cutting areas

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

(a) Coordinated and intersectoral approaches to climate change should complement other areas of activity within the United Nations Environment Programme and throughout the United Nations system;

(b) The need to integrate culture and traditional, Indigenous and community knowledge in the implementation of priority areas;

(c) The need for inclusive representation of minorities and the most vulnerable and marginalized groups, including Indigenous Peoples, local communities, women, youth, children and persons with disabilities;

[1] 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 the core work of UNEP (see document UNEP/EA.5/3/Rev.1).

(d) The need for inclusive and innovative communication techniques tailored to specific stakeholder beneficiaries, including through the use of local languages;

(e) The need to ensure that priority actions are tailored to the unique needs of the region and countries and consider socioeconomic and geographical situations; and

(f) The need to ensure that private-sector entities are included as stakeholders as appropriate.

1. Asia-Pacific States

11. The regional stakeholders' consultation for Asia-Pacific States was organized in a hybrid format in collaboration with the UNEP Regional Office for Asia and the Pacific, with contributions from the regional offices for West Asia and Europe. The consultations included Montevideo Programme V national focal points from the region and legal experts from research institutions, non-governmental organizations and academia. The Montevideo Programme V regional meeting was organized back to back with the third ASEAN Environmental Law Conference, held in Bangkok from 15 to 18 August 2023. The key areas identified by the region as priorities for Montevideo Programme V are set out in table 2.

Table 2
Key priority areas identified during regional consultations for Asia-Pacific States

Category	*Key priority areas*
1. Strengthen legal and institutional frameworks to address climate change	• Improve constitutional protection for environment-related rights. • Improve the use and application of citizen science.[a] • Enhance emphasis on corporate social responsibility to include private sector liability for environmental violations. • Support the development of national funds to address climate change. • Support the development of strong regional mechanisms to address environmental challenges.
2. Enhance capacity-building and awareness to increase the effectiveness of environmental law	• Develop curricula on key issues of governance for primary and secondary education. • Integrate mandatory training on environmental law in legal education. • Provide support to countries to enable the prosecution of transboundary environmental harms. • Strengthen the capacity of the media to cover human rights and environmental issues. • Improve awareness of civil society on environment- and climate-related human rights.
3. Research and knowledge development	The following climate-related areas of concern were identified as requiring further knowledge development:[b] • Glacial melting • Sea level rise • Climate-induced migration • Climate-induced poverty • Carbon taxes • Climate change and air pollution linkages • Green finance mechanisms. Additional stakeholder input would be needed to identify specific areas of intervention that would contribute to Montevideo Programme V.

[a] This refers to the involvement of citizens in scientific research and/or knowledge production (see S. Fritz and others, "Citizen science and the United Nations Sustainable Development Goals", *Nature Sustainability*, vol. 2 (Oct. 2019).

[b] Final priority areas selected may include only those areas or activities that fall within the mandate of Montevideo Programme V.

2. African States

In collaboration with the UNEP Regional Office for Africa, the secretariat organised a session on regional consultations on the Fifth Montevideo Programme for the Development and Periodic Review

of Environmental Law during the fifth scientific conference and general assembly of the Association of Environmental Law Lecturers in African Universities, which took place from 21 to 23 August 2023 in Nairobi. National focal points from the region participated in person, together with academic legal experts from the African region. The key areas identified by the region as priorities for Montevideo Programme V are set out in table 3.

Table 3
Key priority areas identified during regional consultations for African States

Category	*Key priority areas*
1. Strengthen legal and institutional frameworks to address climate change	• Support the development of model laws on environmental issues. • Support countries to improve existing regional or subregional agreements related to climate change.
2. Enhance capacity-building and awareness to increase the effectiveness of environmental law	• Support engagement of the private sector, including through supporting corporate social responsibility on climate change. • Develop knowledge materials and tools to support public participation and access to information on climate change. • Focus on human rights as an accountability framework to strengthen public interest climate change litigation.
3. Research and knowledge development	• Strengthen the role of African universities in the development of knowledge regarding climate governance. • Develop educational and awareness-raising materials and reports on climate governance, including on new and emerging areas and concepts in climate change governance, among others. • Explore linkages between climate change, human security and migration, their impacts on communities, and the means of addressing such challenges.

3. Latin American and Caribbean States

12. In collaboration with the regional subprogramme coordinator for environmental governance based at the UNEP Regional Office for Latin America and the Caribbean, the secretariat organized the Montevideo Programme V regional conference on legal responses to combat the triple planetary crisis in Latin America and the Caribbean in Panama City on 25 and 26 September 2023. National focal points from the region, along with some legal experts from universities in the region, participated in person, and 450 other participants, including experts and other stakeholders, participated online. The key areas identified by the region as priorities for Montevideo Programme V are set out in table 4.

Table 4
Key priority areas identified during regional consultations for Latin American and Caribbean States

Category	*Key priority areas*
1. Strengthen legal and institutional frameworks to address climate change	• Support countries in integrating international treaty obligations into national law and updating legislative frameworks. • Support the development of legislative measures for climate change mitigation, namely through establishing emission reduction targets and carbon markets. • Enhance the role of data and information in climate change governance. • Strengthen national and regional climate information systems and mechanisms for climate data analysis. • Support mechanisms for the use of data to inform public policy. • Support mechanisms to enable access to climate information and data of the judiciary.
2. Enhance capacity-building and awareness to increase the effectiveness of environmental law	• Strengthen the capacity of enforcement officials to investigate environmental crimes. • Build knowledge and awareness of all relevant stakeholders on the importance and role of specialized courts and tribunals in addressing environmental issues. • Build stakeholder awareness and understanding of human rights-based approaches to climate change. • Improve access to and dissemination of environmental legislation.

Category	*Key priority areas*
3. Research and knowledge development	• Improve knowledge of the role of legal frameworks in promoting a circular economy, energy efficiency, improved technology and sustainable transportation.

IV. Options for priority areas

13. This part outlines options for priority areas under thematic area (b) based on the outcomes of the regional consultations, categorized under the three areas of intervention.

A. Strengthen legal and institutional frameworks to address climate change

(a) Support countries in developing, strengthening and implementing legislation to better integrate climate change mitigation and adaptation considerations and related international obligations;

(b) 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;

(c) 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;

(d) Enhance the role of data and information in climate governance.

B. Enhance capacity-building and awareness to increase the effectiveness of environmental law

(a) Provide capacity-building to all climate change stakeholders on climate governance, including Montevideo Programme 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;

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

(c) Enhance legal education at all levels on environmental and climate change law, as appropriate;

(d) Improve access to and dissemination of national climate-related legislation.

C. Research and knowledge development

(a) Deepen knowledge on emerging issues of climate-related law;

(b) Deepen knowledge on linkages between climate change, human security and migration, impacts on communities and the means of addressing such challenges;

(c) Strengthen the role of academia in supporting research on climate governance, with particular emphasis on the representation of universities in developing countries.