

In-person Segment of the First Global Meeting of National Focal Points
Fifth Programme for the Development and Periodic Review of Environmental Law
Nairobi, 6-9 June 2022,¹ Co-Chairs' Summary

Item 1: Opening of the meeting

1. The in-person segment of the First Global Meeting of National Focal Points under the Fifth Programme for the Development and Periodic Review of the Environmental Law was opened at 3 p.m. Nairobi time (UTC +3) on 6 June 2022. Mr. Arnold Kreilhuber, Deputy Director of the Law Division, United Nations Environment Programme (UNEP) read opening remarks on behalf of Ms. Patricia Kameri-Mbote, Director of the Law Division, UNEP.
2. The opening statement welcomed participants and emphasized the important role of the Fifth Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme V or the Programme) in developing and strengthening environmental rule of law, especially at the national level. The opening remarks also highlighted the history of the Montevideo Programme, noting that its 40th anniversary was celebrated on 31 May 2022 with a 24-hour celebration for environmental rule of law. The statement concluded by highlighting the critical role of national focal points (NFPs) in identifying and providing guidance on the priority areas for the implementation of the Programme.
3. Mr. Timothy R. Epp of the United States of America and Mr. Marcelo Cousillas of Uruguay, Co-Chairs of the meeting, welcomed all participants and noted that the goal of the meeting was to identify additional priority areas of the Programme that are both measurable and capable of demonstrating dramatic change in the world. The Co-Chairs underscored the strength of the Programme, reinforced by its vision and overall objectives.

Item 2: Organizational matters

4. Mr. Epp, Co-Chair, introduced the proposed organization of work set out in the annotations to the agenda (UNEP/Env.Law/MTV5/GNFP.1/1/Add.2), and recommended that consideration of agenda item 4(c) on emerging areas of environmental law be deferred to reflect the time-constrained reality of the meeting. National focal points agreed to the proposed organization of work.

Item 3: National focal points

5. The secretariat introduced a report on the status of nominations of NFPs, (UNEP/Env.Law/MTV5/GNFP.1/3/Rev.1), requesting that any amendments related to errors or omissions be sent via email to the secretariat at unep-montevideo@un.org. One participant requested the inclusion of information on designations received for the State of Palestine, the Cook Islands, Niue and the European Union in the next update of the document.

¹ The first global meeting was held in two segments – an online segment held from 2 to 4 June 2021 and an in-person segment held in Nairobi from 6 to 9 June 2022.

Item 4: Implementation of the fifth Programme for the Development and Periodic Review of Environmental Law

Item 4 (a): Status of implementation, activities and funding

6. Mr. Epp, Co-Chair, introduced Agenda Item 4(a) and requested the secretariat to present a report on the status of implementation, activities and funding under the Programme (UNEP/Env.Law/MTV5/GNFP.1/2/Rev.1). The secretariat provided updates that occurred since the publication of the report, stating that the steering committee for implementation had its first face-to-face meeting on 6 June 2022, with some participants attending virtually. Discussions at this meeting focused on preparations for the in-person segment of the First Global Meeting. The secretariat noted that some changes to the membership of the steering committee had taken place since the release of the report. For Peru, Mr. Jimpson Davila Ordoñez has replaced Mr. Mariano Castro Sanchez-Moreno effective 29 April 2022 and Slovenia is now represented by Ms. Helena Kramar, who replaced Ms. Nataša Petrovčič effective 23 May 2022. The secretariat also informed the participants that the trust fund to manage funds designated for the Programme had been established.
7. The secretariat gave an introductory presentation on the UNEP Law and Environment Assistance Platform (UNEP-LEAP), which was launched at the online segment of the First Global Meeting of National Focal Points.
8. Several participants applauded UNEP-LEAP as a means of taking concrete action in relation to development and enforcement of environmental law, continually emphasizing the need to focus on a specific, measurable and achievable work programme with time-bound results in all aspects of the Programme.
9. Several participants offered comments on how to improve UNEP-LEAP, including suggestions on improving the technical assistance function and country profile pages. The secretariat assured the participants that, following the meeting, the secretariat will reflect on the comments to improve UNEP-LEAP and will strengthen engagement with NFPs.
10. One participant noted that the roadmap to deliver the initial priority area for implementation, legal responses to address the air pollution crisis, should help define a clear timeline for implementation of activities, providing estimates for resource needs and monitoring of progress. The participant emphasized that it would be beneficial to set out the overarching objectives of the Programme in relation to air pollution in the roadmap.
11. The delegation of Trinidad and Tobago requested recognition of the passing of its National Focal Point, Ms. Judy Daniel, who passed away on 24 February 2022. Other participants supported the commemoration of Ms. Daniel's passing.

Item 4 (b): Priority Areas for Implementation

12. Mr. Cousillas, Co-Chair, turned to Agenda Item 4(b) and requested the secretariat to introduce a document titled "Priority Areas for Implementation" (UNEP/Env.Law/MTV5/GNFP.1/4/Rev.1). The document sets out possible priority areas for implementation for the remainder of the Programme until 31 December 2029, together with modalities and mechanisms to support countries in their implementation of the Programme.
13. Participants emphasized the need to carry out work under priority areas in a manner that respects the independence and mandates of various multilateral environmental agreements (MEAs) without duplicating any existing work already being undertaken. Further, several

participants expressed that the focus of the Programme should be on the implementation of MEAs, while others cautioned against having this as a sole focus, noting that not all environmental issues are covered by MEAs. Several participants supported the need for harmonization of reporting mechanisms relating to various MEAs under the Programme.

14. Many participants stressed the need to develop a focused direction for the Programme, underpinned by a clear roadmap or roadmaps in order to better structure the path forward, set out priority implementation areas, identify desired goals and timeframes for each area, and elaborate upon specific steps to achieve these goals by taking a needs-based approach to implementation.
15. Several participants further emphasized the need to ensure sufficient financial, technical and technological capacity development and support in addition to legislative development for developing countries to facilitate implementation of the Programme. Some participants also emphasized the importance of ensuring interlinkages between the three priority areas, with one participant stressing that, by addressing one priority area, the other priority areas should be supported as well.
16. One participant suggested additional items as future priority areas, being the promotion or adoption of national or local laws on access to information, public participation and access to justice; compiling national or local model laws on waste management; and promoting national or local environmental law enforcement and implementation including planning tools, such as environmental impact assessments and permits. Other participants also suggested additional priority areas, including combatting desertification, strengthening information and data exchange, and strengthening education and cross border collaboration at administrative and judicial levels to tackle environmental crime.
17. Other topics of discussion included the need to ensure linkages between all stakeholders, including rural and local communities, to implement the priority areas; the need to clearly set out indicators for all outcomes; and the need to clearly differentiate between outputs and outcomes.
18. Mr. Cousillas, Co-Chair, before continuing with further consideration of the agenda item, paused to offer condolences for the recent passing of the Minister for the Environment of the Dominican Republic, Mr. Orlando Jorge Mera, observing a minute of silence in his memory. Mr. Epp, Co-Chair, expressed condolences to the Dominican Republic.
19. Several participants emphasized the need for implementation of the priority areas to be tailored towards national circumstances and priorities. There were repeated calls for increased partnership and financial support to ensure effective implementation of national environmental laws. Many participants also called for capacity building of their NFPs through technical and legislative trainings. Some participants sought clarity on the prioritization criteria proposed for assessment of requests for technical legal assistance.
20. Participants engaged in discussion over how best to approach the identified priority areas, with some participants suggesting that the areas be narrowed and focused, and others indicating that the areas should be broadened with a view to being more all-encompassing. Overall, many participants expressed interest in adopting the identified priority areas as proposed by the secretariat.
21. The Co-Chairs presented a non-paper outlining proposed priority areas for implementation under the Programme. The non-paper contains three parts, including two annexes, and incorporates views from preceding plenaries of the resumed meeting. The non-paper proposes three thematic areas (legal response to address the pollution crisis, the climate crisis and the biodiversity crisis),

supplemented by cross-cutting activities. These thematic areas and initial priority areas for implementation of the Programme are set out in Annex I of the non-paper. Annex II of the non-paper outlines a set of criteria for assessment of technical legal assistance requests received through UNEP-LEAP.

22. Participants discussed the non-paper prepared by the Co-Chairs, proposing numerous changes to the text. The Co-Chairs, taking into account the views heard, informed the meeting that they will revise the language in the non-paper for incorporation into the report of the in-person segment of the meeting.
23. The outcomes of discussions under this agenda item, as reflected in the revised version of the document prepared by the Co-Chairs, are set out below:

Outcomes of discussions under agenda item 4 (b), “Priority areas for implementation”

24. National focal points considered document UNEP/Env.Law/MTV5/GNFP.1/4/Rev.1, which sets out possible priority areas for implementation for the remainder of the Programme until 31 December 2029, together with modalities and mechanisms to support countries in their implementation of the Programme.
25. The national focal points agreed on three core and interlinked thematic areas and that the national focal points would, through an iterative process following guidance by the steering committee for implementation and the global meetings throughout the decade, identify the priority areas for the implementation of the Programme. The thematic areas, which are legal responses to address the pollution crisis, the climate crisis and the biodiversity crisis, supplemented by relevant and interlinked cross-cutting activities, express the objectives for an impactful decade of action and implementation. The thematic areas and initial priority areas for the implementation of the Programme that the national focal points identified during the first global meeting of the national focal points are set out in annex I to the present Co-Chairs’ Summary and are subject to the following implementing guidelines:

(a) National focal points invited the secretariat to develop, in consultation with the steering committee for implementation and taking into consideration comments shared by national focal points during the first global meeting,² road maps to implement the identified priority areas for implementation and any related cross-cutting activities described in annex I to the present Co-Chairs’ Summary (the Implementation Roadmaps) to be considered and approved by the steering committee for implementation. The Implementation Roadmaps may focus on specific priority areas for implementation and any related cross-cutting activities or may address identified priority areas within one or more thematic areas, as may be appropriate. The Implementation Roadmaps should describe: (i) the strategies for implementation; (ii) the planned implementing work until the next global meeting of national focal points as well as work planned or anticipated in later time periods, as appropriate; (iii) how the implementing work will be conducted; (iv) the estimated cost of the planned implementing work and potential funding sources; and (v) intended results with clearly defined indicators, which should be measurable, verifiable and results-oriented.

² During the in-person segment of the global meeting, several participants underscored specific priorities, including enhancing access to environmental information; public participation in environmental decision-making and access to justice in environmental matters; support and guidance for enhancing implementation, compliance and enforcement; combating crimes that affect the environment, including cross-border crimes; legal frameworks to support implementation of the post-2020 global biodiversity framework; transboundary pollution; plastic pollution; enhancing participation by children and youth; and water pollution.

(b) Priority areas and activities under the Programme should be implemented with due consideration of the needs expressed by countries and taking into account the specificities of each region, including through technical legal assistance requests received through the UNEP Law and Environment Assistance Platform (UNEP-LEAP) and in keeping with the categories and criteria listed in annex II to the present Co-Chairs' Summary. National focal points noted that areas or activities not included in the priority areas and activities referred to in annex I to the present Co-Chairs' Summary should, in accordance with the criteria set out in annex II, be considered by the secretariat, and be reported to the steering committee for implementation.

26. Several national focal points emphasized the important contribution that Montevideo Programme V could make, subject to the availability of resources, to assist Member States with the implementation of multilateral environmental agreements to which they are a party, while respecting the independence of those multilateral environmental agreements and avoiding duplication. Other national focal points expressed the view that the Programme's limited resources should not be spent on the implementation of multilateral environmental agreements, many of which had their own resources, and that assistance with the development and implementation of countries' domestic laws could contribute to the goals of relevant multilateral environmental agreements.
27. Several national focal points referred to paragraph 16 of the political declaration of the special session of the United Nations Environment Assembly to commemorate the fiftieth anniversary of the establishment of the United Nations Environment Programme,³ in which Member States and members of specialized agencies were invited to increase their support to Montevideo Programme V.
28. National focal points invited the secretariat to prepare and provide an estimate of the resources needed to implement the Programme and the Implementation Roadmaps, with careful attention to be given to the specific needs of developing countries. National focal points also invited the secretariat to develop a resource mobilization strategy for the Programme that, in addition to providing estimates of resources needed, should include a strategy for enhancing the visibility of the Programme, both within the United Nations system and among Member States, including by communicating achievements.
29. Furthermore, the secretariat was requested to provide a progress report in line with paragraph 6 (a) (x) of Montevideo Programme V one year in advance of each global meeting of national focal points, and to provide an update, including recommendations for the further implementation of the Programme, through its report on the status of implementation, activities and funding, six weeks in advance of each global meeting. In addition, the secretariat was requested to support the steering committee for implementation in its development of a structured consultative process for the periods between global meetings, involving regional consultations with national focal points via the steering committee for implementation, to identify additional priority areas for implementation so that national focal points would be optimally positioned to make informed decisions at their global meetings.

Item 5: Partnerships and stakeholder engagement

30. Mr. Epp, Co-Chair, noted the importance of partnerships and stakeholder engagement in implementing the Montevideo Programme V as evidenced by several references within the text of the Programme and UN Environment Assembly resolution 4/20. The secretariat presented a working paper on partnerships and stakeholder engagement (UNEP/Env.Law/MTV5/GNFP.1/7)

³UNEP/EA.SS.1/4.

to provide a set of guiding questions to assist national focal points and stakeholders in their consideration of the agenda item and welcomed comments from NFPs on the paper.

31. Several participants provided suggestions in response to the guiding questions. The African Group suggested consideration of principles such as state responsibility, common but differentiated responsibilities, accountability, and sovereign equality.
32. Several participants emphasized the significance of partnerships in implementing the Programme. One participant welcomed the establishment of the UN Legal Officers Network. The secretariat was encouraged to actively promote partnerships especially through UNEP-LEAP. Participants also called upon the secretariat to explore means to enhance the visibility of the Programme to attract more partnerships and stakeholder engagement.
33. The secretariat welcomed the comments and noted that a draft strategy will be prepared and shared with the steering committee for implementation for consideration at the next meeting, expected to be held in October 2022. One participant requested that all NFPs be involved in deliberations of the strategy at the steering committee phase.

Item 7: Date and venue of the second global meeting of national focal points

34. Mr. Epp, Co-Chair, introduced agenda item 7 by recalling paragraph 6(b)(vi) of Montevideo Programme V which contemplates biennial global meetings of the NFPs. The participants agreed to the Co-Chair's proposal for the secretariat, in consultation with the steering committee for implementation, to decide and communicate the date and venue of the next meeting.

Item 8: Other matters

35. Mr. Cousillas, Co-Chair, asked the participants whether there were any additional matters to consider before closure of the meeting.
36. One participant raised the issue of partnership and collaboration among regions, applauding the work of the Co-Chairs in enhancing regional cooperation. Another participant reiterated the need to enhance regional cooperation through regional meetings in advance of future global meetings in order to enhance implementation of the Programme.

Item 9: Adoption of the outcomes of the meeting

37. Mr. Epp, Co-Chair, introduced agenda item 9. After the headings of the summary report of the in-person meeting were read out by Mr. Epp, he advised that the summary would be finalized and circulated in writing to participants in due course. Mr. Epp further noted that a formal report of the meeting will be prepared by the Rapporteur, with the assistance of the secretariat, to be circulated to participants, and which will serve as a record of the decisions taken.

Item 10: Closure of the meeting

38. Closing remarks were given by the Co-Chairs and the secretariat. The in-person segment of the meeting was closed at 6:35 p.m. Nairobi time (UTC +3) on 9 June 2022.

Annex I

Priority areas for implementation of the Programme and cross-cutting activities

A. Strategies relevant to the thematic areas for implementation of the Programme

1. In collaboration with relevant partners and stakeholders, and in cooperation, as appropriate, with the secretariats of multilateral environmental agreements to ensure the mutual supportiveness of efforts, support countries in:

(a) Strengthening, developing and implementing appropriate legal instruments and frameworks at the national or subnational level and building the related capacity to prevent, control and manage pollution of the air and of freshwater, marine, coastal and all terrestrial environments that could affect the global environment and human health. This may include the development of domestic enforcement mechanisms to support goals consistent with multilateral environmental agreements and those of other existing frameworks on chemicals and waste;

(b) Strengthening, developing and implementing appropriate legal and institutional frameworks at the national or subnational level and building the related capacity to mitigate and adapt to climate change, contributing to the goals of the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement and other relevant multilateral environmental agreements;

(c) Strengthening, developing and implementing appropriate legal and institutional frameworks at the national or subnational level and building related capacity regarding the implementation of relevant obligations, goals and commitments, as appropriate, under biodiversity-related conventions and other instruments, including the post-2020 global biodiversity framework that is expected to be adopted in 2022 by the Conference of the Parties to the Convention on Biological Diversity at its fifteenth meeting and other conventions related to biodiversity.

B. Thematic areas for the implementation of the Programme

2. Thematic area 1: legal responses to address the pollution crisis, including the following initial priority areas identified by the national focal points:

(a) Legal responses to address air pollution;

(b) Legal responses to address waste prevention and mismanagement, including to address plastic pollution;

(c) Legal responses to enhance compliance with and enforcement of legislation to address pollution.

3. Thematic area 2: legal responses to combat the climate crisis, including the following initial priority identified by the national focal points:

Preparation of a report for the national focal points on options for clearly defined priority areas for legal responses to address climate change that would strengthen, develop or implement appropriate legal and institutional frameworks at the national or subnational level and build the related capacity to mitigate and adapt to climate change, while avoiding duplication and ensuring the mutual supportiveness of efforts with processes under UNFCCC and the Paris Agreement.

4. Thematic area 3: legal responses to combat the biodiversity crisis, including the following initial priority areas identified by the national focal points:

(a) Legal responses to enhance compliance with and enforcement of biodiversity related laws, including criminal laws;⁴ and

(b) Preparation of a report for the national focal points on options for clearly defined priority areas to strengthen, develop or implement appropriate legal and institutional frameworks at the national or subnational level to implement biodiversity-related goals and commitments.

C. Cross-cutting activities for implementation of the Programme

5. *Strategy*: In collaboration with relevant partners and stakeholders, support countries in advancing environmental rule of law through cross-cutting and integrated activities that help to address the three planetary crises relating to climate change, biodiversity and nature loss, and pollution and waste, including by providing support to implement multilateral environmental agreements, in cooperation with the secretariats of multilateral environmental agreements, as appropriate, to ensure the mutual supportiveness of efforts that are consistent with the vision, objectives and strategic activities of Montevideo Programme V, and considering the particularities of each region.

6. *Activities*: Integrated legal responses to address the planetary crises relating to climate change, biodiversity and nature loss, and pollution and waste:

(a) Enhancing access to environmental information, public participation in environmental decision-making and access to justice in environmental matters, in particular for vulnerable groups; and

(b) Strengthening education and capacity-building relating to environmental law, including legal and technical training for national focal points.

⁴ Several national focal points emphasized the need to focus on transboundary crime and supported specifically mentioning environmental crime. Other national focal points supported using the wording “crimes that affect the environment” in accordance with General Assembly resolution 76/185 on preventing and combating crimes that affect the environment. A few national focal points expressed concern about including crime as a priority area, emphasizing that it was a national decision whether to criminalize violations of environmental law.

Annex II

Categories and criteria for assessing technical legal assistance requests

1. Subject to the availability of resources, assistance will be delivered to countries under the Programme for activities that support the development or strengthening of adequate and effective environmental legislation and legal frameworks to address environmental issues, enhance the effective implementation of environmental law, and support enhanced capacity-building. Upon receipt of a request for assistance, the secretariat will be guided by the following criteria:

- (a) Alignment with the objectives of the Programme (para. 3 of the Programme);
- (b) Alignment with the strategic activities of the Programme (para. 4 of the Programme);
- (c) Alignment with the United Nations Environment Programme (UNEP) medium-term strategy for the period 2022–2025 and with the relevant rules and procedures of UNEP; and
- (d) Any future guidance to be provided by the national focal points at their global meetings.

2. If a request meets the above criteria, the secretariat will then be guided by the following criteria in determining the prioritization of the request:

- (a) Alignment with the Programme's priority areas for implementation;
- (b) Supportive feedback from the relevant national focal point;
- (c) The views of the steering committee for implementation and partners, as appropriate;
- (d) The potential impact, innovation, replicability and scalability of the proposal;
- (e) Alignment with the country's United Nations Sustainable Development Cooperation Framework;
- (f) The potential contribution to the implementation of the goals of multilateral environmental agreements;
- (g) Potential alignment or complementarity with other technical or capacity-building assistance provided by UNEP under the programmes of work for the period 2022–2023 and 2024–2025 or related programmes;
- (h) The comparative advantage of UNEP in the implementation of the request or the availability of an appropriate implementing partner; and
- (i) The availability of funding for the activity, taking into consideration the overall regional balance in the allocation of funding under the Programme and the specific needs of developing countries.