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United Nations Environment Programme

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

delivering for people and the planet

First global meeting of national focal points

Online, 2–4 June 2021*

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**

Priority areas for implementation

I. Introduction

1. In its resolution 4/20 of 15 March 2019, the United Nations Environment Assembly of the United Nations Environment Programme adopted the fifth Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme V).¹ The vision of Montevideo Programme V is to promote the development and implementation of the environmental rule of law, strengthen related capacity at the national level and contribute to the environmental dimension of the 2030 Agenda for Sustainable Development. Paragraph 6 (b) of the Programme requires national focal points to identify priority areas for the implementation of the Programme. The present document sets out possible priority areas for implementation, together with modalities and mechanisms to support countries in their implementation of the Programme. National focal points are invited to provide guidance on a limited number of focused and feasible initial priority areas for implementation, which will be reviewed at the resumed in-person segment of the meeting.

2. According to the most recent report in the Global Environment Outlook series – *GEO-6: Healthy Planet, Healthy People* – by the United Nations Environment Programme (UNEP), the global environmental situation is deteriorating and the window for action is closing.² Three interconnected crises – climate change, biodiversity loss and pollution – are placing global economic and social well-being at risk, while undermining opportunities to reduce poverty and inequality, and improve lives and livelihoods, as demonstrated by the ongoing coronavirus disease (COVID-19) pandemic. Those three crises are all largely driven by human activity and unsustainable patterns of consumption and production. The 2030 Agenda for Sustainable Development was put in place to accelerate cooperation and urgent collective action, but today the world remains off-track to achieve the Sustainable Development Goals,³ especially those relating to the environment.

* The first global meeting will be held in two parts. The first part will be held online from 2 to 4 June 2021, while the second will be held in person at a location and date to be determined.

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

¹ UNEP/EA.4/19, annex.

² Available at <https://wedocs.unep.org/handle/20.500.11822/27539>.

³ See www.un.org/sustainabledevelopment/progress-report/.

3. The role of environmental law – and more specifically environmental rule of law – in addressing those challenges is clear. Effective laws and strong institutions provide the enabling environment necessary to achieve the Sustainable Development Goals and other relevant environment-related commitments. As outlined in the UNEP publication *Environmental Rule of Law: First Global Report*, well-designed laws implemented by capable government institutions held accountable by an informed and engaged public ensure that environmental goals and commitments can be achieved.⁴ At the same time, environmental challenges cannot be effectively addressed with environmental law solutions exclusively. The design and delivery of strategic activities under Montevideo Programme V seek to focus on areas in which environmental law interventions can have the greatest impact.

4. In its resolution 4/20, the Environment Assembly requested the Executive Director of UNEP to implement Montevideo Programme V through the UNEP programmes of work for the decade beginning in 2020, and in a manner that was fully consistent with relevant medium-term strategies of UNEP. The UNEP medium-term strategy for the period 2018–2021 identified seven priority areas of focus, namely: (a) climate change; (b) resilience to disasters and conflicts; (c) healthy and productive ecosystems; (d) environmental governance; (e) chemicals, waste and air quality; (f) resource efficiency; and (g) environment under review. The UNEP medium-term strategy for the period 2022–2025 focuses UNEP work on developing responses and deploying solutions that aspire to achieve three interlinked and mutually reinforcing strategic objectives, namely (a) “Climate stability”, where net zero greenhouse gas emissions and resilience in the face of climate change are achieved; (b) “Living in harmony with nature”, where humanity prospers in harmony with nature; and (c) “Towards a pollution-free planet”, where pollution is prevented and controlled, while ensuring good environmental quality and improved health and well-being for all. Those three principal areas of action are underpinned by two foundational subprogrammes (on the science-policy interface and environmental governance) and facilitated by two enabling subprogrammes (on finance and economic transformation and on digital transformation).

II. Member State needs assessment survey

5. In January 2021, the secretariat sent an online survey to all national focal points to solicit input on the priority areas for implementation of the Programme. The survey asked national focal points to identify up to three priority activities under each of the nine strategic activity areas mandated in the Programme. It also asked national focal points to suggest up to three initial priority areas for implementation that could be considered at the online segment of the first global meeting of national focal points. Responses were received from 41 member States and have been used to inform the proposals below.

III. Priority areas for implementation

6. Based on the results of the survey and the requirements of the Programme, the secretariat has noted eight priority areas for implementation of the programme from now until 2030, all of which contribute to the development and implementation of environmental rule of law, strengthening the related capacity of countries and contributing to the environmental dimension of the 2030 Agenda. They fall into three thematic priority areas: climate change, biodiversity and pollution. Those thematic priority areas are supplemented by five cross-cutting and strategic activity priority areas, namely: environmental crime and liability; information and data exchange and awareness-raising of environmental law; public participation, access to information and access to justice in environmental matters; the mutually reinforcing relationship between environmental law and the three pillars of the Charter of the United Nations; and education and training on environmental law.

7. Those priority areas for implementation would be reviewed and amended as necessary at each biennial or other global meeting of national focal points. During implementation, prioritization and details of each priority area would be discussed and finalized in consultation with the steering committee for implementation. The identification of priorities is also necessary to enable the secretariat to provide an informed estimation of resource needs for implementing activities under the Programme. All activities under the Programme will be subject to available resources and would be implemented in accordance with the Programme’s implementation guidelines and other requirements.

8. The priority areas for implementation will inform the core strategic focus and activities of Montevideo Programme V and any support provided under the Programme will be prioritized towards requests that align with those priority areas. Nevertheless, in line with its paragraph 5 (a), Montevideo

⁴ Available at www.unep.org/resources/assessment/environmental-rule-law-first-global-report.

Programme V is required to respond to the needs and priorities of countries, and accordingly countries may request support under the Programme on any matter of environmental law that is aligned to the vision and objectives of the Programme. They may submit requests under the Programme immediately after the online segment of the first global meeting in line with the modalities and mechanisms of support outlined below.

9. The eight priority areas for implementation are set out below, together with an explanation of the overall strategy and main points of action for each area.

A. Priority area 1: legal responses to address the pollution crisis

Strategy: In collaboration with relevant partners and stakeholders, support countries to strengthen, develop or implement appropriate legal instruments and frameworks, and build related capacity, to prevent, reduce and control environmental pollution that could affect the environment and human health.

Actions:

(a) Undertake or update, in collaboration with national focal points and other relevant partners and stakeholders, national, regional and global assessments of legal frameworks on pollution, and provide associated practical guidance (for example, model legislation and sample approaches, best practice and model indicators) for countries on developing or strengthening legal frameworks and their implementation, focusing on five priority areas, namely air pollution; sustainable consumption and production; plastics and marine litter; chemicals and waste; and environmental and strategic impact assessment;

(b) Support countries in the review and development of adequate and effective subnational or national environmental legislation and legal frameworks in any of the above-mentioned priority areas;

(c) Support countries to strengthen the effective implementation of environmental law and legal frameworks in any of the above-mentioned priority areas;

(d) Support enhanced capacity-building for all stakeholders (in particular for judges, prosecutors and other enforcement officials) for increased effectiveness of environmental legislation and legal frameworks in any of the above-mentioned priority areas;

(e) Engage countries within the framework of triangular and South-South cooperation to develop a practical guide on tackling pollution.

B. Priority area 2: legal responses to combat the climate crisis

Strategy: In collaboration with relevant partners and stakeholders, support countries to strengthen, develop or implement appropriate legal instruments and frameworks at the subnational or national level, and build related capacity, to mitigate and adapt to climate change.

Actions:

(a) Undertake or update, in collaboration with national focal points and other relevant partners and stakeholders, national, regional and global assessments of legal frameworks and provide associated practical guidance (for example, model legislation and sample approaches, best practice and model indicators) for countries on developing or strengthening subnational or national legal frameworks and their implementation with regard to climate change;

(b) Support countries in the review and development of adequate and effective subnational or national environmental legislation and legal frameworks relevant to climate change;

(c) Support countries to strengthen the effective implementation of environmental law and legal frameworks with regard to climate change at the subnational or national level;

(d) Support enhanced capacity-building for all stakeholders (in particular for judges, prosecutors and other enforcement officials) for increased effectiveness of environmental legislation and legal frameworks on climate change, including through partnership with judicial institutes and networks, and biennial publications on the global status of climate litigation.

C. Priority area 3: legal responses to combat the biodiversity crisis

Strategy: In collaboration with relevant partners and stakeholders, support countries to strengthen, develop or implement appropriate legal instruments and frameworks, and build related capacity, regarding the implementation of relevant goals and commitments under biodiversity-related conventions, including the post-2020 global biodiversity framework to be adopted by the Conference of the Parties to the Convention on Biological Diversity.

Actions:

(a) Undertake or update, in collaboration with national focal points and other relevant partners and stakeholders, national, regional and global assessments of legal frameworks, and provide associated practical guidance (for example, model legislation and sample approaches, best practice and model indicators) for countries on developing or strengthening subnational or national legal frameworks and their implementation with regard to the implementation of relevant goals and commitments under biodiversity-related conventions, including the post-2020 biodiversity framework to be adopted by the Conference of the Parties to the Convention on Biological Diversity;

(b) Support countries in the review and development of adequate and effective subnational or national environmental legislation and legal frameworks relevant to the implementation of relevant goals and commitments under biodiversity-related conventions, including the post-2020 global biodiversity framework to be adopted by the Conference of the Parties to the Convention on Biological Diversity;

(c) Support countries to strengthen the effective implementation of environmental law and legal frameworks relevant to the implementation of relevant goals and commitments in biodiversity-related conventions, within the framework of triangular and South-South cooperation, including the post-2020 global biodiversity framework to be adopted by the Conference of the Parties to the Convention on Biological Diversity;

(d) Support enhanced capacity-building for all stakeholders (in particular for judges, prosecutors and other enforcement officials) for increased effectiveness of environmental legislation and legal frameworks appropriate to the implementation of relevant goals and commitments under biodiversity-related conventions, including the post-2020 global biodiversity framework to be adopted by the Conference of the Parties to the Convention on Biological Diversity.

D. Priority area 4: legal responses to strengthen frameworks on environmental crime and environmental liability

Strategy: In collaboration with relevant partners and stakeholders, support countries to strengthen, develop or implement appropriate legal instruments and frameworks, and build related capacity, regarding environmental crime (including transboundary environmental crime) and environmental liability.

Actions:

(a) Undertake or update, in collaboration with national focal points and other relevant partners and stakeholders, national, regional and global assessments of legal frameworks, and provide associated practical guidance (for example, model legislation and sample approaches, best practice and model indicators) for countries on developing or strengthening legal frameworks and their implementation with regard to environmental crime (including transboundary environmental crime) and environmental liability;

(b) Support countries in the review and development of adequate and effective environmental legislation and legal frameworks relevant to environmental crime (including transboundary environmental crime) and environmental liability;

(c) Support countries to strengthen the effective implementation of environmental law and legal frameworks relevant to environmental crime (including transboundary environmental crime) and environmental liability;

(d) Support enhanced capacity-building for all stakeholders (in particular for judges, prosecutors and other enforcement officials) for increased effectiveness of environmental legislation and legal frameworks relevant to environmental crime (including transboundary environmental crime) and environmental liability.

E. Priority area 5: strengthening information and data exchange, and raising awareness of environmental law

Strategy: In collaboration with relevant partners and stakeholders, develop innovative methodologies and promote information and data exchange among legal stakeholders involved in the development and implementation of environmental law, and raise awareness of environmental law at different levels.

Actions:

- (a) Maintain the UNEP Law and Environment Assistance Platform (UNEP-LEAP) as an information and data exchange platform for national focal points and stakeholders involved in the development and implementation of environmental law;
- (b) Undertake triangular and South-South cooperation activities on environmental law relating to information and data exchange, including support for possible mentorship or twinning programmes between courts, legal clinics and Governments;
- (c) Provide support to judicial institutes and networks, including the development of an online judicial portal to facilitate information and data exchange among judges and other legal stakeholders globally;
- (d) Develop and support initiatives to break down “silos” between different legal stakeholders, including through the development of partnerships in environmental law across and between stakeholders, including United Nations regional commissions and other subregional and regional organizations;
- (e) Support initiatives to raise awareness among key stakeholders, such as partnerships and training with law societies and bar associations, film and media, children and youth, women, networks of environmental human rights defenders, business and private sector actors, and civil-society organizations, to disseminate information on key environmental law issues;
- (f) Explore advocacy, awareness and behaviour change strategies to improve the design and implementation of environmental rule of law initiatives;
- (g) Support communication initiatives by partners to raise awareness of environmental law in targeted contexts.

F. Priority area 6: public participation, access to information and access to justice

Strategy: In collaboration with relevant partners and stakeholders, promote public participation, access to information and access to justice in environmental matters.

Actions:

- (a) Provide support to countries, upon request, in the development and implementation of subregional or regional legal instruments relevant to access rights;
- (b) Develop awareness-raising materials on access rights or procedural environmental rights, including for indigenous peoples, women, children, youth and environmental human rights defenders;
- (c) Provide support for the development or strengthening of environmental law legal clinics as a mechanism to promote public participation and access to justice in environmental matters;
- (d) Provide support to countries to build awareness-raising and capacity-building programmes for, inter alia, law societies and bar associations, the public, judicial and administrative officials, national human rights institutions and jurists;
- (e) Provide support for subregional and regional exchange of information and experiences and the sharing of good practices on access rights.

G. Priority area 7: environmental law and the three pillars of the Charter of the United Nations

Strategy: In collaboration with relevant partners and stakeholders, promote the recognition of the mutually reinforcing relationship between environmental law and the three pillars of the Charter of the United Nations, namely human rights, peace and security, and development.

Actions:

- (a) Undertake joint activities with United Nations entities, including the United Nations Secretariat, the United Nations Development Programme and United Nations country teams, on advancing the environmental rule of law in countries in crisis and post-conflict countries;
- (b) Support implementation of the United Nations Secretary-General's Call to Action for Human Rights.
- (c) In collaboration with the Office of the United Nations High Commissioner for Human Rights and other relevant partners and stakeholders, develop and implement initiatives to promote and protect environmental human rights obligations relating to the enjoyment of a clean, safe, healthy and sustainable environment, including the preparation of practical guidance and models of best practice;
- (d) Develop and implement initiatives to support countries in building back better from the global COVID-19 pandemic.

H. Priority area 8: strengthening education and training in environmental law

Strategy: Encourage and facilitate action on environmental law, with a view to empowering people and communities and strengthening the institutional capacity of countries to address environmental matters.

Actions:

- (a) Partner with universities, academic institutions, research institutes, law networks, law societies and bar associations and other relevant organizations to scale up environmental law education, including through support to curriculum development, train-the-trainers programmes, twinning programmes, scholarships and legal clinics;
- (b) Support child and youth education on environmental law through environmental legal education initiatives;
- (c) Collaborate with technology organizations to scale up initiatives to digitize and disseminate environmental law education materials to reach more people, especially in the global South;
- (d) Collaborate with judicial training institutes, judicial networks, law academies, law societies and bar associations and other organizations to promote training for legal professionals and enforcement officials;
- (e) Promote awareness of alternative dispute resolution techniques and traditional conflict resolution techniques used by indigenous peoples and local communities and assess such techniques with regard to environmental legal education;
- (f) Support initiatives to train and educate workers in the informal sector in environmental law, including refrigeration technicians, mechanics and carpenters;
- (g) Support the development of online teaching and learning tools in environmental law within the framework of triangular and South-South cooperation.

IV. Initial priority areas for implementation

10. On the basis of the survey results and available resources, the secretariat proposes one initial priority area for implementation, as set out in the annex to the present report. That priority area for implementation – legal responses to address the air pollution crisis – would remain in place until reviewed at the in-person segment of the first global meeting of national focal points.

V. Delivering support using the UNEP Law and Environment Assistance Platform

11. Requests for support may be made to the secretariat, either by email to unep-montevideo@un.org or by entering the request directly into the UNEP-LEAP platform at <https://leap.unep.org>. UNEP-LEAP is the central delivery and coordination mechanism for information exchange and implementation of the activities under the Programme. It is an online platform comprising three substantive and interconnected sections: (a) a clearing-house mechanism for technical assistance to countries on environmental law, which includes a menu of services connected to the core objectives of the Programme; (b) a knowledge base containing cutting-edge environmental

law information; and (c) country profiles. The platform will also provide supporting information on Montevideo Programme V, including contact details for all national focal points, meeting documents, information on the steering committee for implementation and details of the Programme's partners. The secretariat will launch UNEP-LEAP during the online segment of the first global meeting of national focal points.

12. The UNEP-LEAP platform offers the following menu of services to countries, aligned to the core objectives of the programme:

- (a) Development of environmental law: support for the development of adequate and effective environmental legislation and legal frameworks at all levels to address environmental issues;
- (b) Implementation of environmental law: support for strengthening the effective implementation of environmental law at the national level;
- (c) Capacity-building: support to enhance capacity-building for increased effectiveness of environmental law for all stakeholders at all levels;
- (d) Environmental rule of law: support in the development and implementation of environmental rule of law, consistent with UNEP Governing Council decision 27/9 on advancing justice, governance and law for environmental sustainability.

13. Templates for requesting assistance are included in UNEP-LEAP and will be shared with countries through national focal points. Once a request has been received, the secretariat will evaluate it against the objectives of the Programme. If the request meets the objectives of the Programme and any relevant policies and procedures of the secretariat, and if resources are available, the request will enter a design phase, followed by an implementation phase. Priority will be given to those requests that are aligned with the priority areas for implementation. If consent is given by the requesting country, the request will be shared with relevant partners. An online "activity tracker" in UNEP-LEAP will provide information regarding the nature and progress of the request, again if the country consents to such information being shared. A flowchart illustrating the above process and all requirements will be provided on UNEP-LEAP.

Annex

Initial priority areas for implementation identified at the online segment of the first global meeting of national focal points

Initial priority area 1: legal responses to address the air pollution crisis

Strategy: In collaboration with relevant partners and stakeholders, support countries to strengthen, develop and implement appropriate legal instruments and frameworks and build related capacity, to prevent, reduce and control air pollution.

Actions:

- (a) Based on a global assessment of air pollution regulation conducted by the secretariat in 2020, develop and provide practical guidance (for example, model legislation and sample approaches, as well as best practices and model indicators) for countries on strengthening the development and implementation of legal frameworks to regulate air pollution, in collaboration with national focal points and other relevant partners and stakeholders;
 - (b) Support countries in the review and development of adequate and effective subnational or national environmental legislation and legal frameworks on air pollution;
 - (c) Support countries to strengthen the effective implementation of environmental law and legal frameworks on air pollution;
 - (d) Support enhanced capacity-building for all stakeholders (especially for judges, prosecutors and other enforcement officials) on addressing air pollution through legal responses.
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