

First informal substantive consultation meeting on
United Nations General Assembly resolution 73/333
21-23 July 2020
Online meeting

Co-Facilitators' summary for the first informal substantive consultation meeting on United Nations General Assembly resolution 73/333, entitled "Follow-up to the report of the ad hoc open-ended working group established pursuant to General Assembly resolution 72/277"

Pursuant to General Assembly Resolution 73/333 of 5 September 2019 and the agreed roadmap by the Bureaus of the UN Environment Assembly (UNEA) and of the Committee of Permanent Representatives (CPR) to the United Nations Environment Programme (UNEP), the first informal substantive consultation was held virtually from 21 to 22 July 2020.

The meeting focused substantively on agenda item 4 of the meeting, entitled "Consideration of the outline document," a document prepared by the co-facilitators with the purpose of further structuring and guiding the discussion at the meeting.

In this document and in the informal substantive consultation, the 13 substantive recommendations endorsed by and set out in the annex of General Assembly Resolution 73/333 were discussed in three informal clusters of topics: 'governance' (recommendations 6, 9, 10, 11, 12, and 18); 'means of implementation' (recommendations 7, 13, 15, and 16) and 'environmental rule of law' (recommendations 8, 14 and 17).

Item 1: Opening of the first substantive consultation meeting.

The Permanent Representatives of Estonia and Pakistan, co-facilitators, welcomed and opened the meeting, followed by an introductory speech by the Deputy Executive Director of UNEP, Ms. Joyce Msuya.

Item 2: Adoption of the agenda and programme of work.

The Agenda was adopted without comment.

Item 3: General statements by regional and political groups and interested Member States and Members of Specialized Agencies.

Many Member States and Members of Specialized Agencies expressed their view that the political declaration for a United Nations high-level meeting referred to General Assembly Resolution 73/333 (Political Declaration) should be drafted as a non-binding document which supports and does not undermine existing international environmental law frameworks, conventions and agreements. There were also calls for the Political Declaration to reflect the relationship between the recommendations of General Assembly Resolution 73/333, the 2030 Agenda and its Sustainable Development Goals, and the Addis Ababa Action Agenda. Many delegations further highlighted that the substantive consultations should not renegotiate the recommendations contained within General Assembly Resolution 73/333.

Several delegations called for an action-oriented Political Declaration, recognizing an opportunity for Member States to demonstrate not only the political will to strengthen international environmental law and governance, but also provide a springboard for greater international collaboration, promote long lasting impacts which can be monitored, and encourage greater implementation of existing international obligations. Other delegations strongly opposed drafting a Political Declaration focused on ‘actionizing’ the recommendations of General Assembly Resolution 73/333, cautioning against renegotiating the recommendations and working beyond the mandate of the group.

There diverse views amongst Member States and Members of Specialized Agencies as to when and where the Political Declaration should be presented and adopted. Some called for the Political Declaration to be adopted at the fifth session of UNEA (UNEA-5) in 2021, or at an event at the UN Compound in Nairobi. Many delegations called for the Political Declaration to be adopted at a separate event in the context of the commemorating of the fifty-year anniversary of UNEP and the Stockholm Declaration, in 2022. Some delegations underlined that the mandate given to UNEA-5 by General Assembly Resolution 73/333 was to prepare a political declaration, not to decide when and where the Political Declaration should be adopted.

Some delegations highlighted the challenges to adequately participate in an online meeting process, noting that some delegations face difficulties to ensure suitable internet access, to ensure participation due to time differences, and other related concerns.

Item 4: Consideration of the Outline document.

Governance (Recommendations 6, 9, 10, 11, 12 and 18)

There was overall consensus on the need to fully implement paragraph 88 of the Rio+20 Declaration and secure the role of UNEP as the leading global environmental authority. Generally, Member States and Members of Specialized Agencies called for this process and the resulting Political Declaration to take into account the current on-going processes taking place in the context of the CPR, including the CPR-based review and the action plan being prepared by UNEP on the implementation of paragraph 88. Some delegations especially stressed the importance to ensure UNEP has secure, stable and adequate financial resources with several delegations underlining the importance that all Member States contribute their fair share. The importance of the consolidation of UNEP headquarters functions in Nairobi was also highlighted by several delegations.

There was some discussion on the overall mandate of UNEP. While some delegations stressed the importance to strengthen UNEP’s operational mandate and resources to assist countries to implement their environmental commitments, others stressed that the UNEP mandate is first and foremost normative and emphasized the importance of UNEP’s role in promoting the science policy interface.

Many Member States and Members of Specialized Agencies supported further calls to strengthen cooperation and synergies among and between relevant environmental instruments and bodies, including different regulatory regimes and environment-related instruments, to create policy coherence, reduce overlap and duplication, and enhance coordination. Many Member States expressed the view that the lack of coherence and cooperation between different instruments contributed to challenges in implementation. Several delegations underlined that the Political Declaration could call for the creation of new modes of collaboration between Multilateral Environmental Agreements (MEAs), including common policy initiatives, exchange of information, and joint programming. Many delegations also called for a strengthening of UNEP as a coordinating entity, recognizing the role of UNEP to encourage joint work and foster cooperation in the international environmental field.

Other delegations cautioned against discussing actions which were not mandated for these consultations, including consideration to expand the role of UNEP or consider specific actions to be taken by the MEAs and their governing bodies. They further underlined that so far the synergies process had not provided all the results

expected. Some stressed the need to ensure that synergies do not increase additional administrative burden or divert the priorities of the MEAs on cooperation or other priorities of Member States. Many delegations underscored the role of the UN Environment Management Group (EMG) and called for more coordination through it. One Member State, however, stressed that the EMG is a UN internal coordination mechanism and therefore it is not for Member States to decide on its priorities.

Many delegations continued to call for cooperation between UNEP and MEAs as well as between MEAs to strengthen international environmental governance. MEA representatives specifically highlighted good practices of cooperation between MEAs which could be strengthened, including the Liaison Group of Biodiversity-related Conventions which develops interlinkages and cooperation among conventions to promote policy coherence, reduce overlap and duplication, and enhance coordination.

Many delegations proposed a need to strengthen synergies and cooperation amongst MEA scientific bodies, reflecting the recommendations of General Assembly Resolution 73/333. Some Member States cautioned that this must be done in a way which ensures the tracking of specific issues are not lost in the streamlining of cooperative assessment procedures. It was highlighted that scientific, technical and technological bodies of biodiversity-related MEAs used to have a formal mechanism which could be revitalized. Several delegations also stressed the need to ensure geographical balance in panel assessment, including from scientists from developing countries.

Means of implementation (recommendations 7, 13, 15, and 16)

Member States and Members of Specialized Agencies generally recognized that the aim to strengthen the implementation of international environmental law was of the utmost importance for achieving existing international environmental targets, commitments, and obligations, and is one of the drivers leading to the adoption of resolution 73/333. Many called for the Political Declaration to specifically include relevant provisions referencing support from developed to developing countries; including through financial resources, technology sharing, and capacity building, in line with previous commitments in MEAs, political declarations and resolutions.

Many delegations highlighted the important role of the Fifth Montevideo Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme V) adopted by UNEA in resolution 4/20 at its fourth session in 2019. Many delegations highlighted the role the Montevideo Programme V implemented by UNEP can have in assisting Member States in their efforts to implement existing international environmental law obligations, including through the provision of analysis and guidance materials in environmental law, and technical legal assistance.

Many Member States and Members of Specialized Agencies called for coordination between UNEP and MEAs to strengthen cohesive and collaborative means of implementation. Representatives from civil society organizations called for improved coordination of environmental regimes and strengthening of cooperation between and among UNEP and MEAs, as relating to scientific research, innovation, and technical assistance.

Some delegations stressed the importance of promoting mainstreaming of the environment into international and national policies, programs, and development plans.

Some Member States called for the Political Declaration to specifically mention and be drafted with the principles of common but differentiated responsibility and equity in mind. Many Member States also called for the Political Declaration to specifically promote increased participation of relevant stakeholders in implementation efforts. Other Member States specifically rejected the inclusion of common but differentiated responsibilities in the Declaration.

While many delegations generally acknowledged that financial resources are essential for implementation, there was disagreement as to how the issue financial resources should be incorporated within the Political Declaration. Some emphasized that all types and sources of means of implementation, including the domestic contributions of States and the private sector, should be used to efficiently capitalize investments aimed at implementation, rather than relying solely on international cooperation; as underlined in the Addis Ababa Action Plan. However, other delegations noted that while some governments have the capacity to mobilize more domestic resources for means of implementation, there is still a need for international cooperation to share funds to ensure the implementation MEAs in developing countries. Other delegations called for a critical assessment of existing financial resources in order to identify the best practices in existing international environmental instruments and frameworks to optimize resources, before determining what needs to be done.

Some delegations emphasized that new streams of financial resources are not necessary if current resources can be used, monitored, and tracked more efficiently to support means of implementation, and further rejected the outcome of a Political Declaration calling for new financial commitments. Other delegations called for additional streams of finance, including the possibility of establishing new funds, to support means of implementation. These delegations noted that new financial movements to support means of implementation should be provided without being equated or tied to development resources.

Environmental rule of law (recommendations 8, 14 and 17)

Several Member States and Members of Specialized Agencies underlined that the ratification of MEAs does not necessarily ensure their implementation: legal measures and commitment at the national level also needs to be present. Some Member States also underlined that obligations should be seen in light of the capacities of countries and their national priorities.

Many delegations recognized that the existing principles of international environmental law are important building blocks of environmental governance, including for its implementation.

Some delegations noted that the work of the International Law Commission (ILC) on general principles of international law could be an opportunity to enhance coordination between UNEP and the ILC, noting the importance of clarifying environmental principles of law. Other Member States rejected a role for UNEP in this process and stressed that the group should not duplicate or prejudge the work of the ILC. In this connection, some Member States clarified that the ILC does not look at environmental law principles but at principles of international law generally.

Some Member States voiced support to reaffirm environmental principles in the Political Declaration, including the Rio Declaration principles and developments since the Rio Declaration. Some of the principles which were explicitly mentioned in the discussion include: common but differentiated responsibilities; equity; the right to development; and state sovereignty over natural resources. Some Member States further called for the Political Declaration to include a common understanding of how principles could be interpreted within specific contexts. Other Member States rejected the outcome of a Political Declaration reaffirming environmental principles, and expressed caution against reopening a discussion which was held in the ad hoc open-ended working group established pursuant to General Assembly resolution 72/277, where the different views of environmental principles were evident.

There were also some comments by certain delegations on the applicability of principles as accepted international law, i.e. that some principles may have now taken the form of customary international law, but others not. Furthermore, such principles were not applied in a uniform fashion.

Many Member States and Members of Specialized Agencies expressed strong support for the Montevideo Programme V and called on each other to participate in its implementation. Many Member States noted that the Political Declaration could lead to increased support for the programme. Some delegations proposed that the

Political Declaration could call on the Montevideo Programme V to continue its programmatic support of capacity building for Member States implementing principles of environmental law. A number of Member States further supported calls for the Montevideo Programme V to be a venue for discussing the principles of international environmental law, as a way to gather information and share best practices of how States have used principles when implementing international environmental law domestically.

The programmatic importance of the Montevideo Programme in understanding environmental rule of law was underscored, with many Member States highlighting work to strengthen environmental law at national levels, training legal professionals in the development, enforcement and monitoring of environmental law, and providing technical and legal assistance to support better governance of environmental law. Several Member States underlined the importance of promoting regular exchanges on best practices of the implementation of international environmental law, including the context of south-south cooperation and the sharing of capacities from developed to developing countries.

Representatives from civil society organizations proposed that effective international environmental law depends on the access to information and data, the participation of stakeholders in decision-making, the promotion of access to justice, and the accountability of all to the law.

Item 5: Provisional agenda and dates for the second substantive consultation meeting.

The Secretariat informed delegations that at this stage, it was not possible to confirm a date for the reopening of the UN Compound in Nairobi. The decision to reopen will depend on a number of criteria, including the guidance from the United Nations Headquarters, the World Health Organization, and the host government. Based on this information and in order to increase chances to have an in-person consultation, the co-facilitators proposed to postpone the next substantive consultation meeting to 3-5 November 2020. It was agreed that the final decision on the dates will be taken by the CPR Bureau.

It was agreed that the co-facilitators will prepare a document on the building blocks of the Political Declaration and an outline of the procedural resolution for the next discussion. These documents will be presented and discussed at the second substantive consultation meeting. This document will be shared with participants in advance of the second substantive consultation.

Item 6: Other matters.

No other matters were raised.

Item 7: Closure of the first substantive consultation meeting.

The meeting closed on 22 July 2020.

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List of Attendance

1. Member States

Afghanistan
Algeria
Angola
Argentina
Australia
Austria
Bahrain
Bangladesh
Belgium
Bolivia (Plurinational State of)
Botswana
Brazil
Burkina Faso
Canada
Chile
China
Colombia
Costa Rica
Czechia
Democratic Republic of the Congo
Djibouti
Egypt
Eritrea
Estonia
Ethiopia
Finland
France
Georgia
Germany
Ghana
India
Iran, Islamic Republic of
Iraq
Israel
Japan
Jordan
Kenya
Kuwait
Lao People's Democratic Republic
Madagascar
Malawi
Malaysia
Mexico

Montenegro
Morocco
Myanmar
Netherlands
New Zealand
Nigeria
Pakistan
Peru
Philippines
Poland
Portugal
Qatar
Republic of Korea
Romania
Russian Federation
Rwanda
Saudi Arabia
Senegal
Singapore
Slovenia
South Africa
Spain
Sweden
Switzerland
Thailand
Tunisia
Turkey
Ukraine
United Kingdom of Great Britain and Northern Ireland
United Republic of Tanzania
United States of America
Venezuela (Bolivarian Republic of)
Zimbabwe

2. Observer States

State of Palestine

3. Members of Specialized Agencies

European Union

4. Accredited Non-Governmental Organizations (NGOs)

African Center for Technology Studies (ACTS)
Association Pour l'Integration et le Developpement Durable au Burundi (AIDB)
Catholic Youth Network for Environmental Sustainability in Africa (CYNESA)
Center for International Environment Law (CIEL)
Central European University
Centre International de Droit Comparé de l'Environnement (CIDCE)
Centre for Human Rights and Climate Change Research
Children and Youth International,
China Biodiversity and Green Development Foundation
Comparatively for Tanzania Elites Community Organizers
Dominicans for Peace and Justice
Emirates Environmental Group (EEG)

Environmental and Societal Development Foundation (ESDF)
Global Ecovillage Network
Green Hope Foundation
Haiti Cholera Research Funding Foundation Inc
India Water Foundation
Institute for Sustainable Development and Research (ISDR)
Institute of Planetary Synthesis
International Centre for Environmental Education and Community Development (ICENECDEV)
International Council of Chemical Associations (ICCA)
International Council of Environmental Law (ICEL)
International Fund for Animal Welfare
International Institute for Law and the Environment (IILE)
Interwaste Research and Development East Africa Trust
Maryknoll Sisters of St. Dominic, Inc
Nipe Fagio
OceanCare
ProVeg International / ProVeg e.V. (ProVeg)
Soroptimist International
Stakeholder Forum for a Sustainable Future
The Conflict and Environment Observatory (CEOBS)
United States Council for International Business (USCIB)
Welfare Togo
World Animal Net (WAN)
World Wide Fund for Nature (WWF)

5. Intergovernmental Organisations

League of Arab States

6. Convention Secretariats

Secretariat of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Stockholm Convention on Persistent Organic Pollutants
Secretariat of the Convention on Biological Diversity and its protocols
Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
Secretariat of the Convention on Wetlands of International Importance especially as Waterfowl Habitat

7. Other UN System Organisations

Human Rights Council
Office of the United Nations High Commissioner for Human Rights (OHCHR)

8. UN Programmes Funds Specialized Agencies

Food and Agriculture Organization of the United Nations (FAO)
United Nations Conference on Trade and Development (UNCTAD)