

REPORT

Regional Meeting of National Focal Points for West Asia on the Programme for the Development and Periodic Review of Environmental Law

Amman, Jordan, 9-10 July 2018

Background

Since the establishment of the United Nations Environment Programme (UN Environment), environmental law has constituted one of the key areas of its work. From 1982 to the present day, the environmental law activities of UN Environment have been organized and coordinated through a series of 10-year programmes adopted by the Governing Council of UN Environment and generally referred to as the Montevideo Programme for the Development and Periodic Review of Environmental Law. The Montevideo Programme has been instrumental in steering the efforts of the international community to develop environmental law, which will transform science-based policies into action-oriented rules and standards of conduct.

The current Programme – Montevideo Programme IV – was adopted by the Governing Council decision 25/11 as a broad strategy enabling the international law community and UN Environment to formulate activities in the field of environmental law for the decade beginning in 2010. Since its commencement in 2010, Montevideo Programme IV has formed an integral part of the UN Environment programmes of work and has provided UN Environment with the strategic guidance needed to respond to evolving needs in countries and the international community in the field of environmental law and undertake necessary action, consistent with each biennial programme of work, in collaboration with a range of partners at the national, regional and global levels.

In May 2016, the United Nations Environment Assembly adopted resolution 2/19 inviting Member States to designate national focal points to collaborate with and guide UN Environment in strengthening the application of the Montevideo Programme and to monitor and evaluate its implementation. Following the designation of national focal points, UN Environment lined up a series of regional consultations to evaluate implementation of the programme and to identify key elements for a future programme.

The present report concerns the third among the series of regional consultations for national focal points from West Asia took place from 9 to 10 July 2018 in Amman, Jordan. It should be noted that the first consultations for national focal points from Africa took place from 4 to 6 June 2018 in Nairobi, Kenya, at the United Nations Office in Nairobi, the second consultations for national focal points from Latin America and the Caribbean took place from 20 to 22 June 2018 in Panama City, Panama and the fourth regional consultations for national focal points from East Asia and the Pacific are scheduled to take place from 24 to 26 July 2018 in Bangkok, Thailand.

The objectives of the meeting were to provide a forum for Montevideo Focal Points from West Asia to:

- (a) Share and exchange information on latest developments, trends, and good practices in the development and enforcement of environmental law in their countries, as well as regionally and globally;
- (b) Contribute to UN Environment's preparation of the assessment of the Montevideo Programme IV, including through sharing information on the status of implementation of the Montevideo Programme IV in their countries; and
- (c) identify priorities from the region and proposals for the work of UN Environment in environmental law for the Fifth Montevideo Programme ten-year period commencing from 2020.

The meeting also provided an important platform to increase partnerships and networks in the region for Montevideo Focal Points and other stakeholders working on environmental law issues.

Opening Session

The meeting was opened by Mr. Ahmed Al Qatarneh, Secretary General of the Ministry of Environment of Jordan. He stressed that a major challenge of the countries in the region was not setting the law but implementing the law and he expressed the hope for strengthened cooperation in the region for the protection of the natural resources, notably water resources. Mr. Fareed Bushehri, Regional Resource Efficiency Coordinator, West Asia Region, UN Environment, welcomed the participants on behalf of the UN Environment Regional Office in Manama, Bahrain, and its Director, Mr. Sami Dimassi. He thanked the Ministry of Environment of Jordan for hosting the event and for their long-standing cooperation with the Regional Office. He also mentioned that this being the first event of its kind for the region it would promote exchange of information amongst countries on environmental law and practices. Finally, Ms. Lara Ognibene, Legal Officer, UN Environment Law Division, briefed participants on the Montevideo IV Programme and the ongoing regional and global consultations exercise.

Representation

The focal points who attended the meeting represented Bahrain, Jordan and Palestine. Representatives from the United Arab Emirates (UAE) informed that they had replaced the previously designated Montevideo focal point for their country and their Government would send a letter shortly to formally notify the Law Division about the change. Representatives from Oman and Yemen also informed that they would be the designated Montevideo focal points for their countries, which had not made any nomination previously. They were advised to formally notify the Division about their nomination. Focal points from Iraq, Kuwait, Qatar, Saudi Arabia, Syrian Arab Republic were unable to attend, but a representative of Lebanon was present during the meeting.

Organization of Work

The meeting provided a forum for discussion and was organized in two one-day segments as follows:

- The first part was dedicated to the exchange of information and experiences on three main themes, i.e. on sustainable development goals (SDGs) and the regional landscape; rapid economic growth and the environment; and displacement, conflict and the environment/building resilient communities;
- The second part focused on the assessment of the Montevideo IV and proposals for elements for a future programme.

Part 1: Exchange of information and experiences

This session was divided into three panel discussions.

Sustainable Development Goals and the Regional Landscape

On SDGs and the regional landscape, main interventions were made by the focal point of Jordan and by UN Environment West Asia Office.

Specifically, the focal point of Jordan informed participants of a new Environmental Protection Law adopted in 2017 and aiming to constitute a comprehensive framework environmental law in the country. In preparing the new environmental law, Jordan had examined extensively international environmental norms, including multilateral environmental agreements (MEAs) and the Montevideo IV programme, and has endeavored to cope with all environmental challenges in a modern environmental law, including environmental impact assessment (EIA) and environmental licensing, waste management, biodiversity protection, control and inspections, penalties, emergency pollution and noise.

The UN Environment West Asia Office representative focused on the main environmental concerns for the region (climate change impacts, waste management, consumption and production patterns, energy, desertification, poverty) and made the link between the Arab SDGs to the corresponding SDGs. He noted that the region was particularly slow in tackling SDGs and integrating the economic and environmental dimensions of development, while there was a need to reconsider the relationship with the private sector and the civil society.

During the discussion that followed, participants noted that often the authorities in charge of environment were less influential than other authorities in charge of economy, energy or industry and it was difficult for the environment authorities to have the other authorities' buy-in in cases of environmental concerns regarding the issuance of a permit for a new project/activity. While this is a global problem, it is accentuated in the region and it impedes implementation of environmental law. The need for proper planning in the context of strategic environmental assessment (SEA) and the consideration of cumulative impacts was also mentioned.

Rapid Economic Growth and Diversification

The region experiences high economic growth. With petroleum and natural gas dominating the regional economy, countries were dependent on imports, but in recent decades there is a significant effort to diversify the economy, notably in the services sector (financial, ecotourism, research and education). At the same time, the region remains vulnerable to external natural stresses, such as extreme rainfalls, droughts and sandstorms, which are expected to exacerbate under the current global climate change scenario. On that basis, participants were invited to listen to interventions from the focal point of Bahrain and the representative of the UAE.

First, the representative of Bahrain reported that the country had developed a wide range of legislation and regulations to tackle environmental questions, such as pollution. But, their main concern remained implementation and enforcement of the laws. He then expanded on the national rules governing fines, remedies and the calculation of environmental damage, based on a 1996 decree which was expected to be updated soon.

Second, the UAE representative emphasized the strong and comprehensive environmental law regime in the country that covered all possible aspects. The environmental legislation was designed to include a framework law, which did not need to be regularly amended, and subsidiary legislation, which was updated more frequently. A new law on used oils was introduced in 2018, dealing with their further use, transport and disposal, while several new instruments were under preparation in regard to integrated waste management, residual waste and landfills and ozone-depleting factory emissions. UAE had put an effort to tackle implementation challenges by elaborating a system of administrative sanctions that are immediate and effective.

In the ensuing discussion participants highlighted the difficulties faced by prosecution and the judiciary in valuing and measuring environmental harm, when there was no physical or moral harm to humans involved as well as the need to ensure that monetary sanctions be collected in an environment fund. They agreed that while countries in the region had enacted environmental law at the national level, implementation and enforcement remained a concern and noted that technical assistance would be needed in particular on the following: training prosecution and the judiciary, valuing environmental harm and training accounting officers and keeping registries and collecting data.

Displacement, conflict and the environment/building resilient communities

Because of its geopolitical location and its oil resources, the West Asia region has been hit by rivalries and armed conflicts, which have an impact on the environment and human health. In turn, environmental harm can lead to conflict. As a result, peace, security and the environment are a priority in the region.

The Yemen representative spoke first. He said that legislation was there, but implementation had been a challenge, even before the conflict. Implementation had further declined after the conflict,

because environment was not considered a priority by security agencies. For instance, authorities were not concerned about the extinction of endangered species and the authorities in charge of environment were reluctant to intervene, when lives were lost in conflict. However, there was an effort to deal with illegal trade of species, because this alone could further lead to security issues, and with marine and air pollution. While reporting by operators was regular before the conflict, periodic reports were now missing, and environmental authorities lacked data. He said that it was very important to raise awareness of security agencies, the private sector and the society and to organize training on calculation of compensation in cases of environmental damage. On the latter, because of the conflict, there was no clarity about which entity was entitled to receive compensation.

The Palestine focal point then presented the difficulties experienced by Palestine in dealing with environmental law challenges at the national and international levels. At the national level, he mentioned the preparation of a new law to better address the polluter-pays-principle and civil liability and to establish the environment fund. At the international level, he explained the difficulties experienced by Palestine as a non-recognized state in dealing with situations of non-compliance by states Parties to MEAs with their obligations under those MEAs, when the alleged non-compliance impacted on the environment of Palestine, or when there was a need to discuss the use of transboundary water resources. He called for UN Environment to consider management of environment in case of conflict and occupation in the next phase of the Montevideo IV.

Finally, the representative of Lebanon said that while the right for a clean environment to everybody was widely recognized, his country had been in a conflict environment for a long time and faced numerous challenges, notably displacement of populations in the region (with the refugees' numbers increasing), water and irrigation, and solid waste management (the country was small and it was very difficult to designate disposal locations). He mentioned that Lebanon was a Party to many MEAs and that their environmental laws (on biodiversity protection, air quality and pollution, hazardous waste, etc) included and respected all environmental principles enshrined in MEAs and other international instruments. There were currently five new draft environmental laws under consideration at the parliament. The aim was to update the laws, raise awareness for preventive action and enhance sustainable use of resources. But, the authorities in charge of environment had only supervising and not executing role, and this further impeded implementation of and respect for environmental legislation.

Closing of Part 1

Wrapping up the first part of the event, participants agreed that they would welcome the UN Environment Law Division assistance in the following:

- Transposition of MEAs and other international environmental law instruments into the national level;
- Dispute settlement and conflict management in case of non-compliance by Parties with their obligations under the MEAs;

- Building capacity of institutions, including government officials, prosecutors and judges, to deal with implementation, enforcement and adjudication in environmental cases;
- Designing EIA legislation and training officials on the procedural and technical aspects;
- Administrative, civil and penal sanctions in environmental cases;
- Valuation of environmental damage and calculation of compensation.

Part 2: Assessment of Montevideo IV and the way forward

On the second day of the Regional Consultation with West Asian focal points, discussion was focused on the specific challenges faced by countries in the development and implementation of environmental law and on the concrete needs for a future programme. The agenda for the second day is included at the end of the summary of discussions.

With respect to issues of implementation, compliance, and enforcement, countries agreed that whilst there were many good examples of environmental law having been adopted at the national level, implementation and enforcement remained a concern (Bahrain, Yemen). In particular, technical assistance was needed in for the following: training prosecution and the judiciary, valuing environmental harm and training government officials in natural accounting, monitoring environmental trends and collecting data (Bahrain, Yemen, Jordan, Palestine). In some cases, Environment Ministry officials are limited in their powers, and this has also impeded implementation of and respect for environmental law (Lebanon). Efforts have been made to address implementation challenges through administrative processes that provide for sanctions and fines (Bahrain, UAE).

On capacity-building, countries agreed to continue developing the capacities of their institutions, including government officials, prosecutors and judges, but also park rangers and environmental inspectors, to deal with implementation, enforcement and adjudication in environmental cases (Bahrain, Yemen, Jordan, Palestine).

As regarding training, there was overall agreement that existing efforts to train judges and prosecutors and other enforcement officers had helped to contribute to an improvement in compliance, especially in context of poaching. That said, countries also concurred that the longer-term sustainability of these training programmes had to be improved (Palestine). Efforts are needed to institutionalise training within universities, executive education training programmes, programmes within Environment Ministries and within law schools. There have been a few notable successes, notably with the training of law enforcement officers in relation to specific MEAs such as the Montreal Protocol and CITES (Jordan, Bahrain). It was agreed that UN Environment had an important role to play in supporting countries in developing longer-term training programmes

Regarding prevention, mitigation and compensation of environmental damage, participants agreed that they would welcome UN Environment Law Division assistance in improving the valuation of environmental damage and calculation of compensation (Lebanon, Bahrain, Yemen, Palestine, Jordan). Some proposed that integrating environmental issues more proactively in primary, secondary and tertiary educational curricula, not to mention training for environmental law officials, would help to raise public awareness on environmental issues.

In terms of the avoidance and settlement of international disputes relating to the environment as well as the strengthening and development of international environmental law, countries asked for guidance in the transposition of MEAs and other international environmental law instruments into the national legislation. Countries agreed on the need to strengthen dispute settlement and conflict management procedures, especially in cases of non-compliance by Parties with their obligations under MEAs (Palestine, Lebanon, Jordan, UAE, Yemen). Continuous, periodical training for different stakeholders on practical ways to implement the different MEAs was suggested (Palestine, Lebanon). One participant in particular requested that UN Environment consider the management of environment in cases of conflict and occupation in the next phase of the Montevideo IV (Palestine).

As regards the importance of harmonisation, coordination, and synergies of environmental law within the region, it was noted that the harmonisation of internal procedures at each step in the environmental lawmaking stages allowed for increased efficiency (Jordan, UAE). There were several comments on the importance of strengthening environmental law making synergies within the region. One concrete recommendation was to develop regional framework laws from which national implementing legislation could be further developed and concretised (UAE).

With regards to public participation and access to information, Palestine and Bahrain emphasised the need to significantly scale up public awareness raising and more specifically, to integrate environmental issues into primary school curriculum. (Bahrain). There exists a need to include environmental education as a core subject matter rather than a peripheral subject. Another major challenge with regards to public participation and access to information includes enhancing the participatory roles of NGOs (Palestine). As such, government and NGOs could work more collaboratively to enhance the technical dimensions of environmental law. It was also suggested that NGOs could play a more prominent role in the dissemination of environmental information to the public and in participating in the law-making process.

With regards to information technology, it was agreed that using such technology in their respective attempts to reduce environmental degradation is extremely important. Countries have conducted consultation with key stakeholders and have tried to adapt policies to include more efficient use of information technology (Jordan). Furthermore, countries have used technology to improve the dissemination of environmental information (Palestine).

With regards to other means to increase effectiveness of environmental law, it was agreed that the legislative and judicial branches of government need to be more heavily involved (Palestine, Bahrain, Jordan). As such, countries have trained lawyers, prosecutors, and judges. (Jordan, Bahrain). Furthermore, certain countries in the region have created special judicial posts and committees, specifically tasked with dealing with environmental law (Bahrain, Oman, Palestine, Jordan.)