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**Ad hoc open-ended working group
established pursuant to General Assembly resolution 72/277**

Third substantive session

Nairobi, 20–22 May 2019

Item 5 of the provisional agenda

**Consideration of the draft report of the ad hoc
open-ended working group**

Report of the ad hoc open-ended working group established pursuant to General Assembly resolution 72/277

**Co-Chairs: Amal Mudallali, Permanent Representative of Lebanon to the
United Nations, and Francisco Duarte Lopes, Permanent Representative of
Portugal to the United Nations¹**

I. Introduction

1. By its resolution 72/277 of 10 May 2018, entitled “Towards a Global Pact for the Environment”, the General Assembly requested the Secretary-General to submit to the Assembly at its seventy-third session, in 2018, a technical and evidence-based report that identified and assessed possible gaps in international environmental law and environment-related instruments with a view to strengthening their implementation. The Assembly also decided to establish an ad hoc open-ended working group under its auspices to consider the report and discuss possible options to address possible gaps in international environmental law and environment-related instruments, as appropriate, and, if deemed necessary, the scope, parameters and feasibility of an international instrument, with a view to making recommendations, which might include the convening of an intergovernmental conference to adopt an international instrument, to the Assembly during the first half of 2019.

2. By the same resolution, the General Assembly decided that the ad hoc open-ended working group should hold the following sessions:

(a) An organizational session, in New York, for a duration of three working days, by the end of the seventy-second session of the General Assembly, in order to examine matters related to the organization of the work of the working group, including the duration and number of its substantive sessions;

(b) Substantive sessions, in Nairobi, the first of which should be held at least one month after the submission of the report of the Secretary-General.

¹ Appointed by the President of the General Assembly in accordance with paragraph 6 of General Assembly resolution 72/277.

II. Organizational session

3. The ad hoc open-ended working group held its organizational session at United Nations Headquarters from 5 to 7 September 2018. The working group held five meetings during the session. At its fourth meeting of the session, on 6 September, the working group adopted decision 2018/1, by which it agreed on the duration and number of its substantive sessions and decided that those sessions would be held as follows:

- (a) The first substantive session would be held from 14 to 18 January 2019;
- (b) Unless the working group decided otherwise, a substantive session of 3 to 5 days in duration would begin on 18 March 2019;
- (c) Unless the working group decided otherwise, a substantive session of 3 to 5 days in duration would begin on 20 May 2019.

4. At its fifth meeting of the session, on 7 September 2018, by its decision 2018/2, the ad hoc open-ended working group decided on the provisional agenda for its first substantive session, as follows:

Provisional agenda for the first substantive session

- 1. Opening of the session.
 - 2. Adoption of the agenda and programme of work.
 - 3. Financing of the activities of the ad hoc open-ended working group.
 - 4. General statements.
 - 5. Consideration of the report of the Secretary-General.
 - 6. Provisional agenda and dates for the second substantive session.
 - 7. Other matters.
 - 8. Closure of the first substantive session.
5. The organizational session concluded its work on 7 September 2018. The report on the organizational session is available as document A/AC.289/2.

III. First substantive session

A. Opening and duration

6. The ad hoc open-ended working group held its first substantive session at the headquarters of the United Nations Environment Programme (UNEP), at the United Nations Office at Nairobi, from 14 to 18 January 2019. The working group held 10 meetings during the session.

B. Documentation

7. The ad hoc open-ended working group had before it the following documents:
- (a) Provisional agenda and annotations thereto for the first substantive session of the ad hoc open-ended working group (A/AC.289/3);
 - (b) Proposed programme of work of the first substantive session of the ad hoc open-ended working group (conference room paper circulated in English only);
 - (c) Report of the Secretary-General entitled “Gaps in international environmental law and environment-related instruments: towards a global pact for the environment” (A/73/419);
 - (d) Informal paper by the co-chairs on the provisional agenda for the second substantive session of the ad hoc open-ended working group (circulated in English only).

C. Attendance

8. Representatives of the following Member States of the United Nations and members of United Nations specialized agencies attended the session:

Algeria, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Bahrain, Bangladesh, Belgium, Belize, Benin, Bolivia (Plurinational State of), Botswana, Brazil, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Chad, Chile, China, Colombia, Costa Rica, Cuba, Czechia, Democratic Republic of the Congo, Denmark, Djibouti, Ecuador, Egypt, El Salvador,

Estonia, Eswatini, Ethiopia, European Union, Fiji, Finland, France, Gabon, Germany, Greece, Guatemala, Guinea, Guyana, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Japan, Jordan, Kenya, Lebanon, Madagascar, Malaysia, Maldives, Mali, Malta, Mexico, Micronesia (Federated States of), Monaco, Morocco, Myanmar, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Samoa, Saudi Arabia, Senegal, Serbia, Sierra Leone, Singapore, Slovakia, Spain, Sri Lanka, State of Palestine, Suriname, Sweden, Switzerland, Thailand, Togo, Turkey, Tuvalu, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Viet Nam.

9. The following United Nations bodies, secretariat units and convention secretariats were represented:

Department for General Assembly and Conference Management; Office of the United Nations High Commissioner for Human Rights (OHCHR); 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 Wetlands of International Importance especially as Waterfowl Habitat; secretariat of the Minamata Convention on Mercury; secretariat of the Montreal Protocol on Substances that Deplete the Ozone Layer; United Nations Development Programme; United Nations Office at Nairobi.

10. The following intergovernmental organizations were represented:

International Chamber of Commerce, International Committee of the Red Cross, International Federation of the Red Cross and Red Crescent Societies, League of Arab States.

11. Sixty-seven non-governmental organizations were also represented.

D. Agenda

12. At its first meeting of the session, on 14 January, the ad hoc open-ended working group adopted its agenda, as agreed on at its organizational session and as set out in document A/AC.289/3, as follows:

Agenda for the first substantive session

1. Opening of the session.
2. Adoption of the agenda and programme of work.
3. Financing of the activities of the ad hoc open-ended working group.
4. General statements.
5. Consideration of the report of the Secretary-General.
6. Provisional agenda and dates for the second substantive session.
7. Other matters.
8. Closure of the first substantive session.

13. At the same meeting, the working group also adopted its programme of work.

E. Programme of work

14. At the first meeting of its first substantive session, the ad hoc open-ended working group, in accordance with its programme of work, heard opening statements from the acting Executive Director of UNEP, the Principal Secretary of the Ministry of Foreign Affairs of Kenya and the co-chairs. The Principal Legal Officer of UNEP then gave a presentation on the state of finances of the working group. Representatives of Member States of the United Nations and members of United Nations specialized agencies made general statements. The Principal Legal Officer of UNEP then introduced the report of the Secretary-General.

15. From the second to eighth meetings, the representatives of Member States and members of specialized agencies discussed each section of the report, namely: (a) gaps concerning principles of international environmental law; (b) gaps relating to existing regulatory regimes; (c) environment-related instruments; (d) gaps relating to the governance structure of international

environmental law; (e) gaps relating to the implementation and effectiveness of international environmental law; and (f) conclusions.

16. At the ninth meeting of the session, on 18 January, the co-chairs introduced their informal paper on the provisional agenda for the second substantive session.

17. At the tenth meeting of the session, also on 18 January, the co-chairs provided an oral summary of the discussions held at the first substantive session. That summary was later circulated in writing in English only.²

18. Representatives of the following Member States of the United Nations and members of United Nations specialized agencies made statements during the session:

Algeria, Argentina, Armenia, Australia, Bahrain, Bangladesh, Belize, Benin, Brazil, Bolivia (Plurinational State of), Burkina Faso, Cameroon, Canada, Chad, Chile, China, Colombia, Costa Rica, Cuba, Democratic Republic of the Congo, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, European Union, Georgia, Guinea, Guyana, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Japan, Kenya, Malaysia, Malawi, Maldives, Mali, Mexico, Micronesia (Federated States of), Monaco, Morocco, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Paraguay, Peru, Philippines, Republic of Korea, Russian Federation, Saint Lucia, Saudi Arabia, Senegal, Serbia, Singapore, South Africa, Sri Lanka, Switzerland, Togo, Turkey, Uganda, Uruguay, United Republic of Tanzania, United States of America, Venezuela (Bolivarian Republic of), Viet Nam, Zambia.

19. Statements were made by the following United Nations bodies, secretariat units and 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 Wetlands of International Importance especially as Waterfowl Habitat; secretariat of the Minamata Convention on Mercury.

20. Statements were made by the following intergovernmental organizations:

International Chamber of Commerce, League of Arab States.

21. Statements were also made by non-governmental organizations.

F. Decisions

22. At its tenth meeting of the session, on 18 January, the ad hoc open-ended working group agreed that the second substantive session would be held from 18 to 20 March 2019. It also agreed on the provisional agenda for that session on the basis of the non-paper by the co-chairs, as orally revised, as follows:

Provisional agenda for the second substantive session

1. Opening of the session.
2. Adoption of the agenda and programme of work.
3. Financing of the activities of the ad hoc open-ended working group.
4. Discussion of possible options to address possible gaps in international environmental law and environment-related instruments, as appropriate.
5. Provisional agenda and dates of the third substantive session.
6. Other matters.
7. Closure of the session.

² Available at www.unenvironment.org/events/conference/towards-global-pact-environment.

III. Second substantive session

A. Opening and duration

23. The ad hoc open-ended working group held its second substantive session at the United Nations Office at Nairobi from 18 to 20 March 2019. The working group held six meetings during the session.

B. Documentation

24. The ad hoc open-ended working group had before it the following documents:

(a) Provisional agenda for the second substantive session of the ad hoc open-ended working group (A/AC.289/4);

(b) Proposed programme of work for the second substantive session of the ad hoc open-ended working group (conference room paper circulated in English only);

(c) Letter dated 1 March 2019 from the President of the General Assembly, attaching a communication from the co-chairs dated 28 February 2019 setting out questions to guide the organization and discussions of the second substantive session;

(d) Informal paper by the co-chairs on the provisional agenda for the third substantive session of the ad hoc open-ended working group (circulated in English only).

C. Attendance

25. Representatives of the following Member States of the United Nations and members of the United Nations specialized agencies attended the session:

Algeria, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Bahrain, Belgium, Belize, Benin, Bhutan, Bolivia (Plurinational State of), Botswana, Brazil, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Chad, Chile, China, Colombia, Costa Rica, Cuba, Czechia, Democratic Republic of the Congo, Denmark, Djibouti, Ecuador, Egypt, El Salvador, Ethiopia, European Union, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Greece, Guinea, Guyana, Holy See, Honduras, Hungary, Iceland, India, Iran (Islamic Republic of), Iraq, Ireland, Italy, Japan, Jordan, Kenya, Kuwait, Lebanon, Madagascar, Malawi, Malaysia, Maldives, Mexico, Micronesia (Federated States of), Mongolia, Morocco, Myanmar, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Panama, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Saint Lucia, Saudi Arabia, Senegal, Singapore, Somalia, Spain, Sri Lanka, State of Palestine, Sudan, Sweden, Switzerland, Thailand, Tuvalu, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Zambia.

26. The following United Nations bodies, secretariat units and convention secretariats were represented:

Food and Agriculture Organization of the United Nations; OHCHR; 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 Minamata Convention on Mercury; secretariat of the Montreal Protocol on Substances that Deplete the Ozone Layer; UNEP; United Nations Office at Nairobi.

27. The following intergovernmental organizations were represented:

International Chamber of Commerce, League of Arab States.

28. Thirty-eight non-governmental organizations were also represented.

D. Agenda

29. At its first meeting of the session, on 18 March, the ad hoc open-ended working group adopted its agenda, as agreed on at its first substantive session and as set out in document A/AC.289/4, as follows:

Agenda for the second substantive session

1. Opening of the session.

2. Adoption of the agenda and programme of work.
 3. Financing of the activities of the ad hoc open-ended working group.
 4. Discussion of possible options to address possible gaps in international environmental law and environment-related instruments, as appropriate.
 5. Provisional agenda and dates of the third substantive session.
 6. Other matters.
 7. Closure of the session.
30. At the same meeting, the working group also adopted its programme of work.

E. Programme of work

31. At the first meeting of its second substantive session, the ad hoc open-ended working group, in accordance with its programme of work, heard opening statements from the acting Executive Director of UNEP and the co-chairs. Those statements were followed by a presentation by the Director of the Law Division of UNEP on the state of finances of the working group. Representatives of Member States and members of specialized agencies then made general remarks.
32. During the two informal meetings that followed, the working group discussed the following four questions, as set out in the communication from the co-chairs dated 28 February 2019:
- (a) What options can be considered to address the possible gaps or challenges related to principles of international environmental law mentioned by delegations, without duplicating or undermining existing law and ongoing efforts/processes? What would be the objective of such options? What methodology should be used to develop them?
 - (b) What options can be considered to address the possible gaps related to the governance structure of international environmental law, including challenges in coordination and mutual supportiveness as well as risks of incoherence highlighted by delegations?
 - (c) What options can be considered to address possible gaps or challenges relating to the implementation of existing rules and principles of international environmental law?
 - (d) What options can be considered to address the possible gaps related to specific regulatory regimes or environment-related instruments with a view to strengthening the implementation of international environmental law?
33. At the fifth meeting of the session, on 20 March, the co-chairs introduced their informal paper on the provisional agenda for the third substantive session of the working group, which was circulated in English only.
34. At the sixth meeting, also on 20 March, the co-chairs provided an oral summary of the discussions held at the second substantive session. That summary was later circulated in writing in English only.³
35. The following Member States of the United Nations and members of United Nations specialized agencies made statements during the session:
- Algeria, Argentina, Australia, Bahrain, Belize, Benin, Brazil, Bolivia (Plurinational State of), Burkina Faso, Cameroon, Canada, Chile, China, Colombia, Costa Rica, Cuba, Democratic Republic of the Congo, Ecuador, Egypt, Eritrea, Ethiopia, European Union, Georgia, Guinea, Guyana, Honduras, India, Japan, Kenya, Malaysia, Malawi, Mexico, Micronesia (Federated States of), Morocco, New Zealand, Nicaragua, Nigeria, Peru, Philippines, Russian Federation, Saudi Arabia, Senegal, South Africa, Sri Lanka, State of Palestine, Switzerland, Turkey, Uganda, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Zambia.
36. The following intergovernmental organizations made statements:
- International Chamber of Commerce, League of Arab States.
37. Statements were also made by non-governmental organizations.

³ Available at www.unenvironment.org/events/conference/towards-global-pact-environment.

F. Decisions

38. At its fifth meeting of the session, on 20 March, the ad hoc open-ended working group agreed that the third substantive session would be held from 20 to 22 May 2019, with pre-session consultations to be held on 19 May, and agreed to the provisional agenda for that session on the basis of an informal paper by the co-chairs, as follows:

Provisional agenda for the third substantive session

1. Opening of the session.
 2. Adoption of the agenda and programme of work.
 3. Statement on the financing of the activities of the ad hoc open-ended working group.
 4. Consideration of the draft recommendations of the ad hoc open-ended working group.
 5. Consideration of the draft report of the ad hoc open-ended working group.
 6. Other matters.
 7. Closure of the session.
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