

BRIEF SUMMARY ON UGANDA'S POSITION ON PROPOSED RECOMMENDATIONS OF THE AOEWG TOWARDS THE GLOBAL PACT

Introduction

At the 2nd substantive session of the OEWG, it was resolved that a third substantive session be held on 20th to 22nd May 2019 in Nairobi. The Co-Chairs developed draft elements for recommendations as a basis for discussions at the 3rd substantive session as indicated below.

The Uganda delegation has considered the proposals and accordingly commends the Co-Chairs for synthesizing the deliberations and generating reflective recommendations for our consideration at the 3rd substantive session.

We have assumed that the draft recommendations on elements relating to objectives are or should be in line with ToRs of the Adhoc Open Ended Working Group and that recommendations on elements on substantive issues were triggered by the identified gaps, challenges and options. For effective discussion, we numbered the bullets under each element and our comments are directed to each specific bullet as indicated below;

Elements Objectives

- a) Reinforce the protection of the environment for the present and future generation;*

We agree with the proposal but propose that a strong statement in form of recommendation be made to reflect earlier deliberations.

It may be recalled that during the earlier deliberations, delegates pointed out that the global pact presents an opportunity to develop a single comprehensive legal and binding instrument to provide a legal framework for international environmental law that recognizes the existing regimes but supports further integration of legal norms, emerging technical concepts, principles and rules that will continue to guide states, international organizations and individuals in the field of environmental law.

- b) Uphold existing obligations and commitments under existing international environmental law;*

We agree with the proposal. However, the recommendation should voice the need to incorporate identified areas that may need coherence with other international laws. Emphasis is made to the deliberations on the need consolidate and perhaps codify the widely accepted principles and norms contained in non-binding instruments and fill gaps where such exist.

c) Contribute to the strengthening of the implementation of international environmental law and environment –related instruments.

We agree with the proposal but a modification to this recommendation is required to incorporate identified gaps and challenges.

d) Support the implementation of the 2030 Agenda for Sustainable development.

We wish to propose modification to this proposal. It is important that the proposals go beyond 2030. Embracing outcomes of the 2030 Agenda and beyond is ideal.

e) Not undermine existing relevant legal instruments and frameworks and relevant global, regional and sectoral bodies.

We agree with this proposal but propose that it is merged with a) above.

Elements related to the Substantive issues

a) Catalyzes efforts at all levels to further the implementation of international environmental law and environment related instruments, including through accelerating the mobilization of the necessary means of implementation consistent with the Addis Ababa Action Agenda.

We agree with the proposed recommendation up to environment related instruments. The last part of the recommendation should be aligned to the recommendations in the objective element to emphasize relevancy.

b) Promotes further work on principles of international environmental law with a view to strengthening the implementation of international environmental law and environment-related instruments.

We wish to propose modification on promoting because our understanding is that principles will continue to emerge as science and other processes inform implementation mechanisms. The primary issue should be consolidation and codification to make the principles once established more binding and facilitate uniform application at all levels.

- c) Invites governing bodies of the Multilateral environment agreements, while preserving their independence, to identify and address implementation challenges in their regimes, with a view to strengthening implementation at the national and international levels.*

We agree with this proposal. However, it should be appreciated that many environmental issues are complex making implementation of the regulatory regimes difficult. We propose that the recommendation should also speak to a possibility of setting up general uniform approach to implementing the regulatory regimes.

- d) Fosters increased cooperation and coordination among the governing bodies and Secretariats of Multilateral environment agreements, as well as between them and governing bodies and Secretariats of other environment –related instruments.*

We agree with the proposal but suggest that text be added to speak to how the cooperation is to be fostered. It will be recalled that in the previous sessions, there was observation that the institutional structures and procedures they establish may provide autonomy and clarity of mandate for each, but, it is critical to establish common rules of procedure for all the bodies to ensure effective implementation, promote information exchange, review of reports, refinement of scientific guidance, monitoring, and mobilization of financial resources.

- e) Promotes increased efforts to streamline the reporting and/ or monitoring processes of Multilateral Environment Agreements and Scientific bodies as well as invites increased sharing of information between them, and for joint reporting, as and when appropriate.*

We agree with the proposal. See comment above.

- f) Encourages Members States that have not done so to ratify Multilateral Environment Instruments and effectively implement them.*

We agree. This strengthens the principles of state sovereignty and common but differentiated responsibilities and respective capabilities, which shall remain critical to cooperation among states.

- g) Encourages Member States to strengthen regulatory frameworks at national level as well as the capacity of the judiciary to apply international environmental law.*

We agree with this proposal. It should be noted however, that there is need to specify an international forum that will have jurisdiction to determine disputes where environmental harm or risk is the subject matter. This will give courts legal ability to decide cases and refer those that present apparent conflicts of interest to the international forum.

- h) Promotes active and meaningful stakeholder engagements in the different fore related to implementation of international environmental law and environment – related instruments.*

We agree with the proposal.

- i) Explores further ways for Member States to support and make full use of the Fifth Programme for the Development and Periodic Review of environmental law (Montevideo Programme V) adopted by the 4th session of the UN Environment Assembly in order to foster the environmental rule of law and advance the implementation of environmental law at all levels.*

We wish to propose a slight modification to the proposal to consider use of “urge” member states to embrace the programme as the best option to foster and require that the periodic review ensure that they inform implementation and other related process.

- j) Encourages the United Nations Environment Programme, as Chair of the Environment Management Group and in collaboration with the members of the Group, to develop UN system –wide strategies on how they could best support Member States in the integration and implementation of international law, as appropriate.*

We agree with the proposal.

Elements Related to the process

- a) Considers the adoption of an international instrument at a high level United Nations Conference, with a view to strengthen the implementation of international environmental law.*

We wish to propose modification to this proposal and think it relates to the overall objective.

- b) Establishes a preparatory committee, prior to holding the said conference, to make substantive recommendations to the General Assembly during the 1st half*

of 2020 on elements of an international instrument including on its nature, scope and parameters.

We wish to propose modification to this proposal. The AOEWG should complete and conclude on the assignment, so that the constituted committee is to draft text on identified options to address gaps and challenges.

The assignment to the Ad Hoc Open ended group was partly to consider this recommendation; *"...to consider the SG 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 may include the convening of an intergovernmental conference to adopt an international instrument,...*Towards a Global Pact for the Environment".

At the 1st substantive meeting, deliberations were that scope needs to be determined and proposals that the scope of the assignment was not limited to gaps in international environmental law and environment related instruments but included challenges in implementation of the same that may need strengthening. Therefore, the section on substantive issues should suffice subject to additional inputs during the 3rd session.

c) Determines a specific timeline by which the negotiations would take place and reach a conclusion.

We agree with this proposal, but it should be in line with the observation above. Thus, more time be requested to the enable focused deliberations on the assignment before the preparatory committee is constituted. The question therefore is; has the AOEWG concluded its work?

d) Establishes that the negotiations are to be open to all Member States of the United Nations, members of specialized agencies and parties to the Multilateral Environment Agreements, with others invited as observers in accordance with past practice of the United Nations.

We wish to propose modification to this proposal. Negotiations should be on clearly outlined issues. It is not clear in the recommendations under this element that we have agreed to issues for negotiation.

We propose, therefore, that the issues be clearly outlined for negotiation.