

Annex 1

Colombia's proposals of new paragraphs to be included in the Declaration (Res. 73.333)

Par. 6Bis: We recognize that advancing obligations related to the enjoyment of a safe, clean, healthy and sustainable environment while making continued progress towards the universal recognition of the right to a healthy environment, will provide effective legal environmental frameworks to address the interconnections between the three mutually reinforcing crises of climate change, biodiversity loss and pollution and their nexus with human health, helping to reduce the risk of future pandemics derived from zoonotic diseases.

Par. 17. We invite all States to engage in a process under the coordination of UNEP to identify which of the principles contained in the United Nations Conference on the Human Environment and the Rio Declaration on Environment and Development are part of customary international law, and particularly to define their meaning, scope and content, taking into account State practice, decisions of international courts and tribunals, as well as the work of the International Law Commission where appropriate.

Par. 28ALT: We recognize that international public finance, in particular, grant-based finance, plays a key role in leveraging the mobilization of different sources of funding to strategically address the implementation of international environmental Law in developing countries and improving the status of the global environment. We call upon developed countries Member States and specialized agencies to increase their efforts in providing financial mechanisms and funds and align their investment portfolios and operations to ensure they have a positive impact on sustainable, low-emissions and resilient development.

Annex 2
COMMENTS AND PROPOSALS OF COLOMBIA ON
DRAFT BUILDING BLOCKS OF A POLITICAL DECLARATION

General comments:

The Permanent Mission of Colombia to the United Nations Environmental Program – UNEP – would like to congratulate the Honorable Co-Facilitators for the remarkable work of producing a first draft containing the building blocks for the political declaration mandated by Resolution 73/333. Colombia believes that this is a very good starting point for the discussion during the Second Substantive Session and appreciates the Co-Facilitator’s efforts during these difficult and atypical times.

Colombia calls upon all countries to finalize this process next year, completing the preparation of the Declaration during UNEA5.2 in February 2022, and adopting the resulting document within the framework of the Commemoration of the creation of the United Nations Environment Programme by the United Nations Conference on the Human Environment, held in Stockholm from 5 to 16 June 1972.

The world faces unprecedented challenges that need immediate multilateral responses. Climate change, biodiversity loss, and pollution are reaching tipping points that humanity might not be able to revert and will have catastrophic consequences, especially on the most vulnerable countries and communities. Moreover, the pandemic has clearly shown the interlinkages between the preservation of human health and the protection of the environment.

In 1972, during the United Nations Conference on the Human Environment, the international community began considering, for the first time in history, the concept of sustainable development. During the last five decades, the world has evidenced that there can be no economic wealth and no human wellbeing without a healthy environment. The international community has built important milestones in search of truly sustainable development, beginning with the Stockholm Declaration, and including, inter alia, the Rio Declaration, Rio+20 Declaration (“The future we want), the Agenda 2030, and its Sustainable Development Goals.

The outcome of Resolution 73/333 must be an opportunity to reaffirm our commitments with sustainable development, a healthy environment, and the fight against environmental crises. It must also contribute to enhance environmental governance and gain further clarity on the principles of international environmental law, necessary to provide for effective implementation of environmental law, for the benefit of people and the planet.

Without prejudice to the textual proposals and comments attached to this letter, Colombia particularly welcomes the elements included by the Co-Facilitators in the three chapters of the draft. In order to strengthen international environmental governance in the context of sustainable development, the declaration should contribute to promoting a clear and common understanding of the principles of international environmental law; as well as supporting the role and mandate of UNEP as the leading international environmental authority, and its constituted bodies, including for enhancing a more coherent implementation of the environmental dimension of sustainable development; promoting coordination of international law developments and international environmental governance; strengthening the science-policy interface and striving for science to be at the center of policy decisions.

Furthermore, it is undeniable that international environmental law is paramount for the protection of the planet. However, Colombia reckons that one of the main hindrances for an effective and coherent implementation of international environmental law is the lack of clarity on which are its binding principles, their content, and scope. Therefore, in order to truly contribute to the effective implementation of international environmental law, this Declaration should give a mandate, within the framework of the UNEP, to identify those principles that could be considered as customary rules and to define their meaning, scope, and content, taking into account State practice, decisions of international courts and tribunals, and the work of the International Law Commission, where appropriate.

Lastly, the call upon all Governments to ratify and effectively implement Multilateral Environmental Agreements, and to provide and mobilize the necessary means of implementation for the fulfillment of the environmental laws and policies as part of the 2030 Agenda, is today more relevant than ever.

The Permanent Mission of the Republic of Colombia to the United Nations Environmental Program – UNEP – avails itself of this opportunity to renew the honorable Secretariat of Governing Bodies and all Member States of UNEP the assurances of its highest consideration.

Preamble

1. We the **Insert titles according to the expected level of participation** and high-level representatives, having gathered at X on X 202x together with political, scientific, civil society and private sector leaders, believe that everyone should be able to live in a safe, clean, healthy and sustainable environment and thus recognize the urgent need to reinforce the protection of the environment for present and future generations.
2. We recall General Assembly Resolution 72/277 of 10 May 2018 entitled “Towards a Global Pact for the Environment”, and General Assembly Resolution 73/333 of 30 August 2019 entitled “Follow-up to the report of the ad hoc open-ended working group established pursuant to General Assembly resolution 72/277”.
3. We recall the Declaration of the United Nations Conference on the Human Environment, the Rio Declaration on Environment and Development, Agenda 21, the Programme for the Further Implementation of Agenda 21, the Johannesburg Declaration on Sustainable Development and the Plan of Implementation of the World Summit on Sustainable Development (Johannesburg Plan of Implementation), General Assembly resolution 69/313 of 27 July 2015 entitled “Addis Ababa Action Agenda of the Third International Conference on Financing for Development (Addis Ababa Action Agenda)”, as well as the outcomes of all the major United Nations conferences and summits in the economic, social and environmental fields;
4. We reaffirm the General Assembly resolution 70/1 of 25 September 2015, entitled “Transforming our world: the 2030 Agenda for Sustainable Development”, in which it adopted a comprehensive, far-reaching and people-centered set of universal and transformative Sustainable Development Goals and targets, its commitment to working tirelessly for the full implementation of the Agenda by 2030, its recognition that eradicating poverty in all its forms and dimensions, is the greatest global challenge and an indispensable requirement for

sustainable development, its commitment to achieving sustainable development in its three dimensions – economic, social and environmental – in a balanced and integrated manner;

5. We reaffirm all the principles of the Rio Declaration;

COMMENTS OF COLOMBIA:

We support an explicit mention to the principles of the Rio Declaration. However, we consider that Stockholm Declaration could be included as well, since the Declaration would be adopted during its 50 years commemoration.

6. We recognize the essential role and existing obligations and commitments under international environmental law and its effective implementation in ensuring an environmentally sustainable future for our planet and addressing urgent social, economic, and environmental challenges, , especially against backdrop of the COVID-19 crisis to reduce pollution and to ensure green recovery and building back better;

COMMENTS OF COLOMBIA, LANGUAGE AND NEW PARAGRAPH PROPOSAL:

The term “green” recovery will very likely face opposition from some delegations. We can accept its deletion as long as there is mention to the recovery being sustainable and inclusive. We suggest the following wording:

We recognize the essential role and existing obligations and commitments under international environmental law and its effective implementation in ensuring an environmentally sustainable future for our planet and addressing urgent social, economic, **human health** and environmental challenges, especially against backdrop of the COVID-19 crisis to reduce pollution **fight climate change and biodiversity loss** and to ~~ensure green recovery and building back better~~ **build back better through a green, sustainable and inclusive recovery.**

6 Bis COL NEW PARAGRAPH PROPOSAL: We recognize that advancing obligations related to the enjoyment of a safe, clean, healthy and sustainable environment while making continued progress towards the universal recognition of the right to a healthy environment, will providing effective legal environmental frameworks to address the interlinkages between the three mutually reinforcing crises of climate change, biodiversity loss and pollution and their nexus with human health, helping to reduce the risk of future pandemics derived from zoonotic diseases.

7. We are committed to strengthening international environmental governance within the context of the institutional framework for sustainable development in order to promote a balanced integration of the environmental, economic and social dimensions of sustainable development as well as enhancing coordination within the United Nations system in supporting the member states driven processes;
8. We recognize the vital role of private sector, academia and civil society in the protection of the environment;

Strengthening international environmental governance in the context of sustainable development

1. We reaffirm the role of the United Nations Environment Programme (UNEP) as the leading global environmental authority that sets the global environmental agenda, promotes the coherent implementation of the environmental dimension of sustainable development within the United Nations system and serves as an authoritative advocate for the global environment.
2. We commit to strengthen the UNEP through more reliable funding and more systematic political recognition to enable the programme to better support countries through capacity building, institutional strengthening, information sharing, and inform and support the inter-governmental development and coherence of the international environmental law and its implementation.

COMMENTS OF COLOMBIA:

Colombia has no objections to this paragraph but we would like clarification on the scope of this commitment and the funds to which it refers. Especially when difficulties persist for most countries to meet the commitments derived from Rio + 20.

3. We call upon the UNEP to increase its visibility and engagement in international processes and to position itself as a relevant voice in important UN processes, including in the environment, health and trade context, where UNEP can continue to provide its specific environmental expertise in ongoing negotiations of specific sectors and thereby contribute to a more coherent international policy-making.
4. We call upon the UNEP to intensify dialogue with other UN entities and build on its mandate as Chair of the Environment Management Group and to strengthen its efforts to engage the United Nations Specialized Agencies to collaborate more actively in the Environment Management Group as well as within the UN Development Group to implement the environmental dimension of the 2030 Agenda in a coordinated manner.
5. We endorse the role of the United Nations Environment Assembly as the universal highest level decision making body on the environment for enhancing the progress of the comprehensive implementation of the environmental dimension of the 2030 Agenda, including striving for interlinkages between environment, economic and social dimension, and we invite Governments and related organizations to use actively the messages of UNEA in their outreach, collaboration and interventions at different international fora for increasing the influence of UNEA.
6. We recognize the important role of multilateral environmental agreements in the overall framework of international environmental law and governance, and significant contributions to sustainable development and confirm our political support to improve the coordination and promote coherence across the Rio Conventions and multilateral environmental agreements and we emphasize the role of UNEA as an enabler for enhancing synergies in the field of international environmental governance.

COMMENTS OF COLOMBIA:

Based on the statement of the first part of this paragraph, “We recognize the important role of multilateral environmental agreements in the overall framework of international environmental law and governance, and significant contributions to sustainable development”, we present a list of the Multilateral Environmental Agreements (MEA) that include environmental principles:

BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

- The polluter pays Principle:
ARTICLE 4
General Obligations
10. The obligation under this Convention of States in which hazardous wastes and other wastes are generated to require that those wastes are managed in an environmentally sound manner may not under any circumstances be transferred to the States of import or transit.

STOCKHOLM CONVENTION ON PERSISTENT ORGANIC POLLUTIONS (POPS)

- Sovereignty and Responsibility not to cause transboundary environmental damage Principle:
PREAMBLE
Reaffirming that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction,
- Common but differentiated responsibility Principle:
PREAMBLE
Taking into account the circumstances and particular requirements of developing countries, in particular the least developed among them, and countries with economies in transition, especially the need to strengthen their national capabilities for the management of chemicals, including through the transfer of technology, the provision of financial and technical assistance and the promotion of cooperation among the Parties,

Noting the respective capabilities of developed and developing countries, as well as the common but differentiated responsibilities of States as set forth in Principle 7 of the Rio Declaration on Environment and Development,
- The polluter pays Principle:
PREAMBLE
Reaffirming Principle 16 of the Rio Declaration on Environment and Development which states that national authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment,
- Precautionary Approach:
ARTICLE 1
Objective
Mindful of the precautionary approach as set forth in Principle 15 of the Rio Declaration on

Environment and Development, the objective of this Convention is to protect human health and the environment from persistent organic pollutants.

CONVENTION ON BIOLOGICAL DIVERSITY

- Sovereignty and Responsibility not to cause transboundary environmental damage Principle:

ARTICLE 3.

Principle

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

THE VIENNA CONVENTION FOR THE PROTECTION OF THE OZONE LAYER

- Sovereignty and Responsibility not to cause transboundary environmental damage Principle:

PREAMBLE

Recalling the pertinent provisions of the Declaration of the United Nations Conference on the Human Environment, and in particular principle 21, which provides that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction,

UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

- Sovereignty and Responsibility not to cause transboundary environmental damage Principle:
PREAMBLE

Reaffirming the principle of sovereignty of States in international cooperation to address climate change,

- Common but differentiated responsibility Principle:

ARTICLE 3

Principles

1. The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof.

- Precautionary Principle:

ARTICLE 3

Principles

3. The Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures, taking into account that policies and measures to deal with climate change should be cost-effective so as to ensure global benefits at the lowest possible cost. To

achieve this, such policies and measures should take into account different socio-economic contexts, be comprehensive, cover all relevant sources, sinks and reservoirs of greenhouse gases and adaptation, and comprise all economic sectors. Efforts to address climate change may be carried out cooperatively by interested Parties.

- The principle of co-operation:

ARTICLE 3

Principles

5. The Parties should cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties, thus enabling them better to address the problems of climate change. Measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

7. We recognize the importance of addressing global major, acute and emerging environmental issues universally in a coherent manner and we emphasize the need of overarching guidance from UNEA for the global environmental agenda, and we stay fully committed in implementing its outcomes.
8. We emphasize the role of UNEA as a central platform in setting the overarching and cross-cutting priorities for international environmental governance and for international environmental law and policies, taking into account the decisions of the governing bodies of multilateral environmental agreements, and we invite the governing bodies of the multilateral environmental agreements to align their decisions with those of UNEA, as we share the political will in doing so as members of the respective governing bodies.
9. We empower the Committee of Permanent Representatives of UNEP in ensuring coherent coordination of the international environmental governance and international environmental law development, and as we acknowledge our responsibility to enhance the capacity in the Committee from the national perspective, we call upon all Member States and Members of Specialized Agencies who have not yet done so, to become accredited to the Committee of Permanent Representatives and to actively participate in its activities.

COMMENTS OF COLOMBIA AND LANGUAGE PROPOSAL:

We consider that it is important to reflect the Montevideo V Programme in this paragraph.

It is important to remember that States are still the only subjects that can create international law, and in this regard, the CPR could only be entitled to coordinate future developments of International Environmental Law reflecting the commitments already acquired by the States and perhaps indicating future developments required for the effective protection of the environment. In any event, the CPR can define new international obligations without the consent of the States.

For this reason, we suggest the following wording:

We empower the Committee of Permanent Representatives of UNEP in ensuring coherent coordination of the international environmental governance and international environmental

law development, **taking into account the results of the Montevideo V Programme**, and as we acknowledge our responsibility to enhance the capacity in the Committee from the national perspective, we call upon all Member States and Members of Specialized Agencies who have not yet done so, to become accredited to the Committee of Permanent Representatives and to actively participate in its activities.

10. We emphasize UNEP's coordination mandate within the United Nations system and entrust it with building synergies with the Secretariats of the multilateral environmental agreements, and empower UNEP to lead efforts to formulate United Nations system-wide strategies on implementing the environment dimension in the Agenda 2030.
11. We acknowledge with a great appreciation the generosity of the Government of Kenya in hosting the only United Nations Head Quarters in the Global South, and as the members of the governing bodies of the multilateral environmental agreements, we invite the respective bodies to hold their conferences and meetings of the parties in Nairobi on a more regular basis for enhancing synergies in international environmental governance and international environmental law development.
12. We emphasize the need to strengthen the science policy interface of UNEP for supporting policy decisions to underpin international environmental governance and we invite UNEP's global environmental assessment processes to continue to collaborate closely with scientific bodies of multilateral environmental agreements and international scientific panels and to maximize multi-disciplinary scientific inputs in order to advance informed decision making.

COMMENTS OF COLOMBIA:

This paragraph is of the utmost importance for Colombia, as strengthening the science policy interface and working with other bodies to present Governments and policy makers with scientific information, is one of UNEP's most valuable tasks.

13. We invite the scientific community to further its work on interconnected, cross-cutting and emerging issues by sharing information among decision making bodies, and encourage the scientific, technical and technological bodies to strengthen cooperation amongst themselves and we invite the Governments and related organizations to make greater use of the assessments and outputs of the scientific community and encourage to invest further in environmental research.

COMMENTS OF COLOMBIA:

In accordance with our previous comment, it is of the utmost importance that Governments and policymakers use the technical and scientific data available produced by the scientific bodies, not only in the process of public policymaking but in inspiring the concrete actions and measures taken to achieve an environmentally sustainable future. If policy and decision-makers do not use that information and only take acknowledge it, the science-policy interface will not be accomplished, and the effort made by scientists will not be worthy.

Environmental law is essential for the protection of our planet

14. We call for the development and adoption of efficient environmental laws, and ensure their effective and fair implementation and enforcement.
15. We invite all Governments to recognize and incorporate agreed principles of international environmental law into their national legal systems in collaboration with the Montevideo Programme for the Development and Periodic Review of Environmental Law, also noting the ongoing work in the International Law Commission on general principles of law.

COMMENTS OF COLOMBIA AND LANGUAGE PROPOSAL:

The problem here lies in the fact that there is not always clarity within national jurisdictions on which are the binding principles of International Environmental Law. Hence the need to reaffirm at least the Rio Declaration (if the Stockholm Declaration does not generate consensus to be included), and to clarify the nature of the role of the International Law Commission and its findings on matters of Environmental Law Principles.

For this reason, we suggest the following wording:

We invite all Governments to recognize and incorporate agreed principles of international environmental law **included particularly in the United Nations Conference on the Human Environment and the Rio Declaration on Environment and Development** into their national legal systems in collaboration with the Montevideo Programme for the Development and Periodic Review of Environmental Law, also noting the ongoing work in the International Law Commission on general principles of law.

Regarding the mention of the ongoing work of the International Law Commission on general principles of law, it should be noticed that the ILC oversees the progressive development and codification of international law. However, the ILC does not create international public law. Therefore, its work on the development of IEL reflects already existing Treaties, Custom and General Principles. Nevertheless, because of the work of the ILC follows the mandate of the Assembly, under article 13 (1) (a) of the Charter of the United Nations, and because of its endeavors for the identification of customary International Law, its work is clearly very relevant for identifying principles of international environmental law. Hence, the ILC ongoing work on general principles of law, is noted, but States do not need to wait until its Report is issued to begin a conversation on the identification of agreed principles of international environmental law.

In this regard, it should be noted that the ILC's *Second report on general principles of law*, issued during the Seventy-second session Geneva, 27 April–5 June and 6 July–7 August 2020, recognized the possibility of the existence of general principles of law in the field of the environment. Besides, it acknowledged that the principles in this area have been widely recognized in treaties and other international instruments. Finally, the ILC identified the polluter pays principle as a possible example of the above.

The exact paragraphs are the following:

135. General principles of law that have emerged through their incorporation into treaties and

other international instruments may also be found in the field of international environmental law. One possible example is the polluter pays principle, which is expressly stipulated or embodied in several environmental treaties, requiring that the polluter bear the costs of pollution prevention, control and reduction. Some recent treaties have referred in their preambles to the polluter-pays principle as a “general principle of international environmental law”.

136. Apart from treaties, the polluter-pays principle has been included in certain international instruments. Notably, principle 16 of the Rio Declaration on Environment and Development provides that: National authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interests and without distorting international trade and investment.

137. In the view of Special Rapporteur, the polluter-pays principle could be considered a general principle of law in the sense of Article 38, paragraph 1 (c), of the Statute of the International Court of Justice, on the basis that its recognition by the community of nations can be ascertained through the incorporation of the principle in several widely accepted treaties and other international instruments.

However, much work needs to be done, and in our view a substantive discussion on these issues could clearly help and reinforce the study conducted by the ILC. It is important to recall that the ILC is focusing on studying the legal nature of general principles of law as a source of international law; the origins and corresponding categories of general principles of law; the functions of general principles of law and their relationship with other sources of international law; and the identification of general principles of law, in all areas, and not only environmental principles. The Reports issued so far have focused on the legal nature of principles and means of identifications, rather than stating the principles and their content and scope. Therefore, a discussion on principles of international environmental law in this context, would complement the findings of the ILC.

16. We recognize the importance of national, regional, and international courts and tribunals to give full effect to principles of international environmental law, and we invite Governments to cooperate to build and support the capacity of related authorities and regulatory enforcement officials at all levels to implement environmental law.

COMMENTS OF COLOMBIA:

Following on what is included in paragraph 15, it should be noted that it is precisely in the national courts where there are greatest doubts regarding the mandatory nature and scope of the International Environmental Law principles. That is why it is so important to clarify what these are and particularly their content.

The International Tribunals have not either gone in an in-depth discussion on the matter, making reference only to a couple of principles. The International Court of Justice, in its judgments and advisory opinions related to environmental matters, has given some consideration to principles. In the case of *Whaling in the Antarctic* (Australia v Japan: New Zealand intervening), the Court addresses arguments raised by the parties regarding the role of the precautionary approach. However, most of the analysis on this principle was done by dissenting or separate opinions of the Judges.

On *Pulp Mills on the River Uruguay* (Argentina v. Uruguay), the ICJ states that under customary international law, “[a] State is thus obliged to use all the means at its disposal in order to avoid activities which take place in its territory, or in any area under its jurisdiction, causing significant damage to the environment of another State” (para. 101). In the same judgement the Court upholds that “the obligation to protect and preserve, under Article 41 (a) of the Statute, has to be interpreted in accordance with a practice, which in recent years has gained so much acceptance among States that it may now be considered a requirement under general international law to undertake an environmental impact assessment where there is a risk that the proposed industrial activity may have a significant adverse impact in a transboundary context, in particular, on a shared resource.” (para. 204)

On *Certain Activities Carried Out by Nicaragua in the border area* (Costa Rica V. Nicaragua) and *Construction of a Road in Costa Rica along the San Juan River* (Nicaragua V. Costa Rica), the Court acknowledges that the Parties concur on the existence in general international law of an obligation to notify, and consult with, the potentially affected State in respect of activities which carry a risk of significant transboundary harm (para. 106)

On the *Advisory Opinion regarding the Legality of the Threat or use of nuclear weapons*, the principle of prevention is addressed in the following terms: “[...] The existence of the general obligation of States to ensure that activities within their jurisdiction and control respect the environment of other States or of areas beyond national control is now part of the corpus of international law relating to the environment.” (para. 29.)

On the *Case Concerning the Gabčíkovo-Nagymaros Project* (Hungary V. Slovakia), Hungary pursued arguments based on the precautionary principle claiming that the previously existing obligation not to cause substantive damage to the territory of another State had, evolved into an *erga omnes* obligation of prevention of damage pursuant to the "precautionary principle". However, Slovakia argued that none of the intervening developments in environmental law gave rise to norms of jus cogens that would override the Treaty. (para. 97). The ICJ stated that “in the field of environmental protection, vigilance and prevention are required on account of the often irreversible character of damage to the environment and of the limitations inherent in the very mechanism of reparation of this type of damage”. (para. 140). However, the Court did not make any further remark as of the nature of this principle.

Other Courts, such as the Interamerican Human Rights Court has stated that “the principle of prevention of environmental damages is part of customary international law” (Advisory Opinion *OC 23/17* of November 15, 2017 requested by Colombia, para. 145) The Interamerican Court makes reference to previous ICJ judgments that have previously recognized this principle as a customary law, as well as other tribunals such as the International Tribunal for the Law of the Sea and the Permanent Court of Arbitration.

17. [COL NEW PARAGRAPH PROPOSAL: We invite all States to engage in a process under the coordination of UNEP to identify which of the principles contained in the United Nations Conference on the Human Environment and the Rio Declaration on Environment and Development are part of customary international law, and particularly to define their meaning, scope and content, taking into account State practice, decisions of international courts and tribunals, as well as the work of the International Law Commission where appropriate.](#)

COMMENTS OF COLOMBIA AND NEW PARAGRAPH PROPOSAL:

Due to the lack of clarity between the States and the national jurisdictions on which are the binding principles of International Environmental Law, Colombia suggests the addition of the following paragraph:

We invite all States to engage in a process under the coordination of UNEP to identify which of the principles contained in the United Nations Conference on the Human Environment and the Rio Declaration on Environment and Development are part of customary international law, and particularly to define their meaning, scope and content, taking into account State practice, decisions of international courts and tribunals, as well as the work of the International Law Commission where appropriate.

It would be strange to recognize the importance of the Stockholm Declaration in a 50th anniversary commemoration, and at the same time not being able to clearly identify which of its principles have evolved from a soft law nature to become customary. The same reasoning applies to the Rio Declaration. The critical situation of the environment demands a legal framework that could efficiently protect and preserve it, and for Colombia that legal framework should include environmental principles that could guide the fulfilment of the obligation acquired by States in this regard.

18. We recognize that the violation of environmental law has the potential to undermine sustainable development and the implementation of agreed environmental and sustainable development goals and objectives at all levels and that the rule of law and effective governance play an essential role in reducing such violations.
19. We encourage Governments and relevant organizations to strengthen, where needed, environmental laws, policies and regulatory frameworks at all levels, as well as capacities across all sectors for the effective implementation of international environmental law, while acknowledging the importance of international cooperation in supporting and complementing national actions and further strengthening mechanisms and exploring initiatives for exchanging information and sharing experiences in order to reinforce international, regional and sub-regional cooperation to combat noncompliance with environmental laws.
20. We call upon the UNEP to continue to support national Governments upon their request in the development and implementation of environmental rule of law with attention at all levels to mutually supporting governance features, including sharing information, public participation, implementable and enforceable laws, and implementation and accountability mechanisms.
21. We call upon all Member States and all members of the Specialized Agencies to increase their support to and make full use of the fifth Programme for the Development and Periodic Review of Environmental Law (Montevideo Environmental Law Programme): delivering for people and the planet, adopted at the fourth session of the United Nations Environment Assembly for the period 2020-2030, in order to foster environmental rule of law and advance the implementation of environmental law at all levels.

Accelerating and facilitating action and implementation at all levels

22. We invite all Governments and related organizations, that have not yet done so, to ratify multilateral environmental agreements and to effectively implement them, and we call upon

UNEP and the secretariats of multilateral environmental agreements to continue to provide technical support to Member States and members of Specialized Agencies for capacity building in environmental law and for the implementation of their obligations under multilateral environment agreements.

23. We encourage Governments to build assessment systems on the status of the environmental policies and regulations and the implementation of the international environmental law.
24. We encourage Governments and related organizations to mainstream the environmental dimension into sectoral policies and programmes at all levels, including into national development and sustainable development plans, in order to ensure coherent and integrated approach in the implementation of the 2030 Agenda.
25. We commit to contribute unearmarked financial resources to UNEP through the Environment Fund, taking into account our national capacities, for strengthening more stable, predictable and adequate funding to the global environmental authority, and we invite UNEP to seek innovative financing without jeopardizing its normative role and in a manner that contributes to implementation of its strategic programme.
26. We call upon UNEP to increase its participation within the UN country teams, the UN Resident Coordinators system and its contribution into the UN Common Country Analysis (CCA) and the United Nations Sustainable Development Cooperation Framework (UN SDCF) in order to effectively assist Member States and members of Specialized Agencies in the implementation of their environmental laws and policies as part of the 2030 Agenda.
27. We call upon Member States and members of Specialized Agencies to enhance the ambition of means of implementation, including the provision and mobilization of all types and sources of means of implementation, especially for countries most affected by environmental degradation, consistent with the Addis Ababa Action Agenda of the Third International Conference on Financing for Development and the 2030 Agenda for Sustainable Development.

COMMENTS OF COLOMBIA AND LANGUAGE PROPOSAL:

We propose the following adjustment:

We call upon Member States and members of Specialized Agencies to enhance the ambition of means of implementation, including the provision and mobilization of all types and sources of means of implementation, especially for countries most affected by environmental degradation **and exposed to environmental and climate risks**, consistent with the Addis Ababa Action Agenda of the Third International Conference on Financing for Development and the 2030 Agenda for Sustainable Development.

When we talk about countries most affected by environmental degradation, we are only considering an ex post intervention, but by adding those countries that are more exposed to environmental risks, we believe that there is a more preemptive approach.

28. We recognize that international public finance plays an important role in complementing the efforts of countries to mobilize public resources and we call upon Member States and members of Specialized Agencies to make optimal use of existing financial mechanisms and funds for purposes of implementing the international environmental law and improving the status of

the global environment.

ALT COL: 28. We recognize that international public finance, in particular, grant-based finance, plays a key role in leveraging the mobilization of different sources of funding to strategically address the implementation of international environmental Law in developing countries and improving the status of the global environment. We call upon developed countries Member States and specialized agencies to increase their efforts in providing financial mechanisms and funds and align their investment portfolios and operations to ensure they have a positive impact on sustainable, low-emissions and resilient development.

29. We call upon all Member States and members of Specialized Agencies to design and make full use of Integrated National Financing Frameworks to facilitate implementation of national strategies for 2030 Agenda and to coordinate efforts to mobilize financing and align investments with national sustainable development priorities and the environmental objectives.
30. We commit to promote innovative and multi-actor financial initiatives and introduce environmental components and sustainable financing approaches to traditional financial mechanisms, to support environmental objectives and incentivize investments in sustainable projects through enhanced information sharing requirements regarding environmental impacts.

COMMENTS OF COLOMBIA:

Regarding the two previous paragraphs, 29 and 30, for Colombia it is important to include in the discussions and consultations the matter on means of implementation and particularly finance mobilization and that investments are aligned with sustainability criteria.

31. We recognize the utmost importance for enhancing environmental financial resources with supplementary financial support, aimed at promoting more sustainable businesses and life patterns, also we call on the Global Environment Facility for increased efforts to mobilize resources and we consider highlighting in a coordinated manner the focus areas and related resources of official development assistance in relation to the environmental objectives and benefits.
32. We commit to exploit the potential for domestic resources through policy reviews such as sustainable fiscal reforms, including environmental taxes, and enhance environmental domestic financial resources to match and reflect the global environmental ambition, by setting a target percentage from GDP by 2030 and explore further innovative financing sources, including enhanced collaboration with private sector.

COMMENTS OF COLOMBIA:

Colombia reserves its right to comment on paragraph 32 later on since currently it is under internal consultation.

33. We recognize peoples' right to have access to information, access to public participation and access to justice in environmental matters and as key pillars of sound environmental governance, and we invite all to disseminate and share evidence-based environmental information and raise public awareness on critical as well as emerging environmental issues.

COMMENTS OF COLOMBIA:

This paragraph is in accordance with the *Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean*, known as Escazú, which was adopted on 4 March 2018, and signed by Colombia on December 11, 2019. Particularly, it is in alignment with the articles 1, 6, 10 and 11.

34. We encourage the active and meaningful engagement of all relevant stakeholders at all levels in the different forums related to the implementation of international environment law and environment-related instruments and explore new mechanisms to promote transparency and the effective engagement of civil society, including via digital means.

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