



*INTERNATIONAL COUNCIL of ENVIRONMENTAL LAW
CONSEIL INTERNATIONAL du DROIT de L'ENVIRONNEMENT
CONSEJO INTERNACIONAL de DERECHO AMBIENTAL*

Secretariat: Pascual Madoz Institute, Carlos III University Madrid, 28903 Getafe, Madrid, Spain

**NOTE:
STRENGTHENING ENVIRONMENTAL COOPERATION in 2022
TOWARD ATTAINING THE SUSTAINABLE DEVELOPMENT GOALS**

For Consultations Pursuant to UNGA Resolution 73/333

15 March 2021

The International Council of Environmental Law (ICEL)¹ provides this NOTE for the informal consultations at the invitation of the Co-Facilitators on the implementation of UNGA Res. 73/333 (30 August 2019), following on Res. 72/277 (10 May 2018).² Founded in New Delhi in 1969, ICEL is the oldest organizations of jurists specializing in environmental law and is in consultative status with ECOSOC and is represented at the United Nations Environment Programme (UNEP) in Nairobi. ICEL has participated in all the consultations following adoption of Res. 72/277.

ICEL and its members have studied the issues of international environmental law and organization with respect to terms of Res. 73/333. ICEL's focus has been on (a) measures to advance attaining the UN Sustainable Development Goals (SDGs) and 2030 Agenda for Sustainable Development, (UNGA Resolution 70/1 of 25 September 2015, entitled "Transforming our world: the 2030 Agenda for Sustainable Development"), and (b) appropriate legal and policy responses to world-wide environmental crises, most recently reviewed in UNEP's report "Making Peace With Nature (2021),³ and previously in the 6th UN Global Environmental Assessment (UN GEO-6, 6 August 2019),⁴ and (c) applications of existing environmental law to avert future pandemics like Covid-19, through the "One Health" approach,⁵ as has been recommended by the UN Environment Assembly (UNEA).

¹ ICEL's secretariat is situated at the Universidad Carlos III de Madrid, Spain, www.icelinternational.org.

² ICEL submits this Note in accordance with the Letter of the Co-Facilitators of 19 January 2021, following the roadmap for consultations of 19 February 2020 (UNEP/CPR/149/5/ADD.2/rev.1) and the informal draft of building blocks (7 October 2020), following the consultations on General Assembly Resolution 73/333 (30 August 2019), as follow-up to UNGA Resolution 72/277 (10 May 2018).

³ "Making Peace With Nature: A Scientific Blueprint to Tackle the Climate, Biodiversity and Pollution Emergencies," (2021) at www.unep.org/resources/making-peace-nature.

⁴ See <https://www.unep.org/resources/assessment/global-environment-outlook-6-summary-policymakers>.

⁵ See "Taking a Multisectoral, One Health Approach: A Tripartite Guide to Addressing Zoonotic Diseases in Countries" UN WHO, UN FAO, and OIE (2019) at <http://www.fao.org/3/ca2942en/ca2942en.pdf>.

ICEL presents this analysis for consideration of the forthcoming intergovernmental consultations during 2021-22. States have acknowledged the grave threats to sustainable development, economic and social relations, and ecological well-being by the concurrent impacts of climate change, biodiversity loss, and expanding levels of pollution. While these constitute an emergency, multilateral diplomacy has the capacity to establish agreed measures to cope.⁶ ICEL provides this NOTE to facilitate the multilateral informal consultations established pursuant to General Assembly Resolution 72/227 (20 May 2018), and in particular to contribute analysis relevant to the recommendations in the Annex to of Res. 73/333 (5 September 2019). This Note examines, in three separate sections below, issues of (I) Governance (an overview and four sub-sections), (II) Capacity-Building, and (III) Drafting the Political Declaration for 2022.

ICEL congratulates the Co-Facilitators for effective progress of these consultations, and thanks H.E. Ms. Saqlaim Syedah, High Commissioner and Permanent Representative of Pakistan and Vice Chair of the Committee of Permanent Representatives (CPR) and Mr. Ado Lohmus, Permanent Representative of the Environment of the Republic of Estonia and Vice President of the Bureau of UNEA, for their effective and diligent enabling of these consultations. ICEL previously has provided its expertise on related legal issues relevant to these deliberations, in October of 2020, co-sponsored by Costa Rica and France,⁷ and in December of 2018, cosponsored by France, Senegal, and the Asian-African Consultative Organization.⁸

ICEL looks forward to the deliberations of the UNEA, at the resumed meeting of its fifth session, that will finalize implementation of the mandate entrusted to it by General Assembly resolution 73/333, to prepare a political declaration for a United Nations high-level meeting.⁹ ICEL welcomes the decision that the resumed meeting of the fifth session of the Environment Assembly shall consist of plenary meetings, a sessional committee of the whole and a high-level segment, including leadership dialogues and a multi-

⁶ The success of negotiating the Sustainable Development Goals is a clear illustration of how States can effectively cooperate on international issues. See Macharia Kamau, Pamela Chasek, and David O'Connor, Transforming Multilateral Diplomacy (2018). Another example is the negotiation of Agenda 21 (1992). See Tommy T.B. Koh, "The Earth Summit's Negotiating Process: Some Reflections on the Art and Science of Negotiation," reprinted at pp v-xviii in N.A. Robinson, Ed., Agenda 21- Earth's Action Plan (Oceana, 1993). Ambassadors Macharia Kamau (Kenya) and Tommy Koh (Singapore) have been honored by ICEL as recipients of the Elisabeth Haub Award for Environmental Law and Diplomacy for their leadership of these two multilateral negotiations.

⁷ See audio-video recording at <http://icelinternational.org/2020/10/27/un-side-event-briefing-on-strengthening-cooperation-for-international-environmental-law/> (27 October 2020).

⁸ See audio-video recording at <http://webtv.un.org/watch/strengthening-implementation-of-international-environmental-law/5977795659001/?term=> (10 Dec 2018 - Commentaries on the UN Secretary General's Report on international environmental law for the "Global pact for the Environment" consultations in 2019 mandated by RES. 72/277 (10 May 2018).

⁹ UNEP/EA.5/L.4. (17 February 2021).

stakeholder dialogue. ICEL is prepared to participate in these dialogues, as it has in the past, as well as in related conferences of States that may be held in Stockholm, or Rio de Janeiro, or New York at UN headquarters.¹⁰

Forthcoming Deliberations During 2021-2022

ICEL's Executive Governor and senior members participated in the 1972 UN Stockholm Conference on the Humans Environment, and in the 1992 UN Conference on Environment & Development (UNCED) in Rio de Janeiro, and in the 2002 UN World Summit on Sustainable Development (WSSD) in Johannesburg. The political declarations agreed at each of these important events paved the way thereafter to agreement on the Sustainable Development Goals in 2015. ICEL, therefore, welcomes the decision to convene a special session of the United Nations Environment Assembly to commemorate the fiftieth anniversary of the establishment of the UNEP, to be held for two days on 3 and 4 March 2022 in Nairobi, in conjunction with the resumed fifth session of UNEA, under the leadership of the Presidency and Bureau of the sixth session of the Environment Assembly.

At this forthcoming event in 2022, States have the unique further opportunity to agree on the policies that can guide the international community through today's environmental emergencies. In this respect, ICEL recalls the excellent work of drafting groups of diplomats that were requested to prepare working texts for past declarations, such the drafting in 1991 of a text for the Rio Declaration that was adopted in 1992. ICEL notes that the Co-Facilitators, with the agreement of States, might appoint such an informal, temporary drafting group; alternatively the designation of a group could be done by as part of the consensus of the General Assembly in its next Session, when the General Assembly considers the appropriate event for the adoption of a political declaration, including the option of adopting the declaration as one of the outcomes of the special session of the Environment Assembly to be held to commemorate the fiftieth anniversary of the creation of UNEP.

The work of such a drafting group is non-binding and would, of course, be supplemental to the UNEA's invitation that States submit proposed resolutions to for consideration by the Environment Assembly at the resumed meeting of the fifth session, which has urged that drafts be ready preferably at least eight weeks in advance of the resumed meeting of the fifth session of the Open-ended CPR, to allow for a productive period of consultation between the online and resumed meetings of the fifth session of the Environment Assembly. Given the short period of time remaining before February of 2022, the work product of a temporary drafting group, agreed by States, could ensure that all States have ample time to consider elements appropriate for a possible political declaration. This

¹⁰ ICEL acknowledges on-going deliberations about possible conferences in Stockholm and elsewhere, reflected in a draft resolution entitled "United Nations high-level meeting Stockholm+50: A healthy planet for the prosperity of all – our responsibility, our opportunity," submitted under UNGA Agenda item 19, convened by the Permanent Missions of Kenya and Sweden.

approach, which has been effective often in the past, takes into account the limited time and resources available for the negotiation of any declaration, as well as for other proposed draft resolutions to be decided by UNEA.

There is ample agreement among States to frame and adopt one or more further political declarations on the 50th anniversary of the historic 1972 Stockholm Conference on the Human Environment and the establishment of the UNEP. This consensus is found in the recent adoption of the medium-term strategy for the period 2022–2025 and the programme of work and budget for the biennium 2022–2023.¹¹

To enhance and further the decisions flowing from this multilateral diplomacy and deliberations in 2022, ICEL recommends that attention be devoted to extending the deliberations throughout the UN system. A declaration and conference in 2022 are not an end, but the beginning of an all-of-government efforts in each State, and an all-of the UN system approach globally, designed to cope with Earth's the escalating environmental emergencies. Regional meetings could be convened through the five regional economic commissions of the UN: ECE, ECA, ECLAC, ESCAP and ESCWA. All regions have much to contribute to attaining the SDGs and averting future pandemics and protecting the environment. ICEL has senior environmental law experts in each of these regions, who can contribute their expertise to further deliberations for implementing the outcomes of the 2022 deliberations. These follow-up UN regional meetings would generate regional cooperation for attaining the SDGs, protecting the environment, and managing emerging infectious diseases. Precedent in this approach is found in the deliberations of the UN World Commission on Environment and Development (WCED), which held regional meetings to secure guidance and support for the WCED report, Our Common Future (1987).

Tackling the climate, biodiversity and pollution emergencies requires an all-of-UN approach, in the same way that all stakeholders are called upon to attain the UN SDGs. The Johannesburg WSSD Summit still motivates us: “From the African continent, the Cradle of Humankind, we solemnly pledge to the peoples of the world, and the generations that will surely inherit this earth, that we are determined to ensure that our collective hope for sustainable development is realized.” (Johannesburg Declaration, paragraph 37).” The Johannesburg Summit agreed that “the integration of the three components of sustainable development — economic development, social development and environmental protection — as interdependent and mutually reinforcing pillars.” (Plan of Implementation of the WSSD, paragraph 2). The Johannesburg Plan of Implementation for Agenda 21 led next to agreement on the “Future We Want” Declaration adopted at the 2002 UN Rio+20 Conference.

The political declaration of 2022, and related decisions, can substantially accelerate international cooperation and capacity building in order to attain the UN SDGs, by 2030

¹¹ UNEP/EA.5/L.3/Rev.1 (17 February 2021).

and beyond. As all States recover from the Covid-19 pandemic, solidarity on these fundamental areas of agreement needs to be renewed, affirmed, and acted upon.

Res. 73/333 stresses “the need to continue to address, in a comprehensive and coherent manner, the challenges posed by environmental degradation in the contest of sustainable development.” To that end, ICEL shares proposals relevant for consideration with respect to the building blocks for strengthening global environmental governance, capacity-building for enhancing implementation of international environmental law, and for a consensus on principles,¹² in one or more draft political declarations for 2022, that will further international cooperation to attain the SDGs, safeguard the environment, and avert another pandemic from an emerging zoonotic disease.

I. Environmental Governance

ICEL recognizes that systems for environmental governance are still evolving. Many options exist to enhance global governance of Earth’s shared natural cycles and systems. Before any of these options can be agreed, States need to cooperate to resolve existing challenges. Out of that cooperation, the basis will emerge – as it has with the SDGs – on what building blocks for governance are possible. In that vein, ICEL addresses four issues for consideration under the building block of governance: (a) UNEA policies on Covid-19 and averting the next pandemic; (b) Global policies on financing sustainable development and converting sovereign debt to finance coping with environmental emergencies; (c) Building capacity for effective governance through employing the environmental rule of law; and (d) Strengthening all governance systems through use of Ecological Management Systems (EMS). ICEL acknowledges that at present consensus may not exist for all of these, but for others consensus does exist as reflected in acceptance of the UNEP’s medium-term strategy, “People and Planet.”¹³

Overview

Since the first UN Conference on the environment in 1972, States have progressively elaborated a remarkable global system for environmental stewardship. Many national, regional, and international agreements provide the building blocks for governance of the oceans, atmosphere, world natural and cultural heritage, and living resources, as pillars of

¹² ICEL has published commentaries on the negotiations associated with UNGA Res. 72/277. See Maria Antonia Tigre, *Gaps in International Environmental Law: Toward a Global Pact for the Environment* (Environmental Law Institute, Jan. 2020), available at https://www.eli.org/sites/default/files/book_pdfs/gaps_frontmatter_o.pdf; see also <https://www.eli.org/eli-press-books/gaps-international-environmental-law-toward-global-pact-environment>. This report has been updated by Maria Antonia Tigre and Victoria Lichet, “Update on Negotiation of a New International Environmental Agreement,” 50 *Environmental Law Reporter* 10818-10825 (October 2020), available at www.eli.org.

¹³ UNEP/EA.5/3 (11 November 2020).

and for sustainable development. Most significantly, States have agreed to integrate all social-economic and ecological goals within an integrated framework, the SDGs.

This holistic framework is essential to reverse the contemporary trends in environmental degradation, which all States suffer. It is a shared interest of all States to refine, implement and attain the SDGs. The world's socio-economic values are entirely dependent on Earth's biosphere, not the other way around.¹⁴ This was acknowledged in the 1972 Stockholm Declaration on the Human Environment, which made recommendations for international governance leading to establishment of UNEP and to the drafting and adoption of the Declaration.¹⁵ International cooperation has produced the SDGs as a framework for global governance.

The consultations under UNGA Res. 73/333 should apply the SDGs as the framework for recommendations on international inter-governmental governance. The consultations could prioritize tasks to strengthen governance. Each SDG depends for its success on an integration of the other SDGs for its effective implementation. Environmental factors (SDGs 14 and 15) should be integral to each other SDG, and *vice versa*. There are many means available to do so. One is clearly to strengthen the work of UNEP, and to deepen UNEP's capacity. Another can be to provide efficient opportunities to strengthen the synergies among the multilateral environmental agreements (MEAs), such as the UN Framework Convention on Climate Change (UNFCCC), the Convention on Biological Diversity (CBD) and others, and build enhanced synergies with other multilateral institutions whose environmental mandates need to be acknowledged and integrated through the SDGs with the MEAs, such as the International Monetary Fund (IMF) and the World Bank, the Food and Agriculture Organization (FAO), the World Health Organization (WHO) and others.

In this NOTE, ICEL offers suggestions about the characteristic ways these synergies might be enhanced. This NOTE presents some examples but acknowledges that every SDG and its Indicators could be evaluated in a similar fashion. Failure to provide for stronger environmental stewardship undermines conditions necessary for attaining each of the other SDGs. Further consultations on governance should examine the roles each SDG offers for enhancing environmental governance and vice versa.

¹⁴ Vladimir Ivanovich Vernadsky (1863-1945) published The Biosphere (1929). His pioneering work began the study of Earth's natural systems, providing the scientific foundation for global governance of the environment.

¹⁵ A/CONF.48/14/rev.1 (1972), Appendix at p. 70. The first paragraph recites that: "1. Man is both creature and moulder of his environment, which gives him physical sustenance and affords him the opportunity for intellectual, moral, social and spiritual growth. In the long and tortuous evolution of the human race on this planet a stage has been reached when, through the rapid acceleration of science and technology, man has acquired the power to transform his environment in countless ways and on an unprecedented scale. Both aspects of man's environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights—even the right to life itself."

Fundamental to the success of all is SDG 17. SDG 17 contemplates governance that to “strengthen the means of implementation and realize the global partnership for sustainable development.” This is illustrated by reference (a) to SDG 17 and the recurrence of new Pandemics beyond Covid-19, and (b) to restructuring the unsustainable system for international sovereign debt.

A. Governance and averting the next Pandemic

The UN Environment Assembly recognized in 2017 that loss of biodiversity and unsustainable development practices were causing an acceleration in the emergence of new zoonotic infectious diseases, caused by humans disturbing the habitats of wild animals, which in turn shed their viruses and bacteria in spill-overs seek new human hosts. Knowledge about zoonosis is well established. UNEA recognized that “biodiversity loss is a health risk multiplier” and that “human, animal, plant and ecosystem health are interdependent.” UNEA emphasized that a “One Health” approach is needed, “an integrated approach which fosters cooperation between environmental conservation and human health, animal health and plan health sectors.” UNEA encouraged UN Member States, and relevant organizations, to “mainstream the conservation and sustainable use of biodiversity to enhance ecosystem resilience ... as an important safeguard for current and future health and human well-being.”¹⁶ Had society heeded these recommendations, the Pandemic of Covid-19 might have been averted.

UNEA’s deliberations in February of 2021 revisited these issues.¹⁷ UNEA found “more than ever that human health and wellbeing are dependent upon nature and the solutions it provides, and we are aware that we shall face recurring risks of future pandemics if we maintain our current unsustainable patterns in our interactions with nature.”

The political declaration on 2022 needs to prescribe a holistic approach for a “One Health” approach, such as UNEA proposed in 2017. ICEL has codified and restated UNEA’s approach as follows: ***“ONE HEALTH is the universal policy and practice of care for the integrity, stability, resilience, and beauty of Earth’s biotic community, through nurturing the interdependent health links that are shared among humans, wildlife, domesticated animals, plants and ecosystems, and all nature. ONE HEALTH transcends and unites the contributions of the life sciences for stewardship of ecosystem integrity and biodiversity and well-being of life on Earth.”***

At its Fifth Session, UNEA framed leading policies about zoonotic diseases, and has recognized that emerging infectious diseases undermine sustainable development. As UNEA-5 determined during 22-23 February 2021, “the devastating global effects of the COVID-19 pandemic, creating new and serious health, socio-economic and environmental challenges, compounding existing ones especially in developing countries, [is]

¹⁶ UNEP/EA 3/Res 4 (2017).

¹⁷ UNEP/EA.5/L.5 (18 Feb. 2021).

undermining our common efforts to eradicate poverty and achieve the 2030 Agenda for Sustainable Development.”

To cope with Covid-19 and to avert or manage further pandemics, governance systems for doing so will need to be strengthened. This will require capacity-building. The legal tools to do so exist, in existing regimes for environmental impact assessment (EIA), in protected area management, in spatial planning and land use management systems, and in applying legal principles, such as the principle of resilience, more robustly. To do so, UNEA should seek to expand the capacity building for environmental law provided in the Fifth Programme for the Development and Periodic Review of Environmental Law (Montevideo V). The Covid-19 pandemic currently has interrupted the on-going capacity-building, entitled “Delivering for People and the Planet.”¹⁸ Covid-19 also interrupted the Second World Congress on Environmental Law of the World Commission on Environmental Law of the International Union for the Conservation of Nature (IUCN). All these capacity building undertakings need to be endorsed and expanded.

UNEP’s mid-term strategy 2022-2025 provides a basis for doing so and outlines the topics that enhanced governance should pursue in paragraph 73: “UNEP will collaborate with United Nations agencies, funds and programmes to support Member States in strengthening biodiversity and health linkages to manage and reduce risks for both human and ecosystem health and to integrate nature into national and international public health decision-making through science-based approaches. In a post-pandemic context, this requires addressing nature degradation as a root cause of zoonotic disease and other novel biological introductions. Work on establishing more sustainable food value chains will be central to this effort, given that so many zoonoses are triggered by unsustainable patterns of food consumption and production. UNEP will also work with partners to strengthen the capacity of countries to implement the One Health approach, focusing on biosecurity measures, and to support the development and subsequent implementation of the Global Plan of Action on Biodiversity and Health. UNEP will also support efforts to mainstream biodiversity for health and nutrition.”¹⁹

These governance building blocks provide the basis for a further political declaration and related decisions, in the intergovernmental consultations in 2021-2022, and beyond. SDG 17 already expresses consensus for addressing the crisis of emerging infectious diseases and zoonotic spill-overs.

SDG 17 applies to all dimensions of environmental governance. The UN General Assembly has assigned a high priority to addressing the Covid-19 pandemic.²⁰ When humans fail to maintain healthy conditions in wild or domesticated animals, the virus that

¹⁸ UNEP/EA.4/L.24 (9 March 2019).

¹⁹ UNEP/EA.5/3/Rev.1 (17 February 2021).

²⁰ See RES/74/307 “United response against global health threats: combating COVID-19” (11 September 2020) and A/RES/74/306 “Comprehensive and coordinated response to the coronavirus disease (COVID-19) pandemic” (11 September 2020).

inhabit these species spill over to find new hosts and infect humans. This biological process is known as zoonosis, and is the process by which Covid-19, SARS, HIV-AIDs, West Nile Virus, Avia Influenza, and many other infectious diseases afflict humans. Environmental governance systems largely ignore zoonosis. When humans keep wildlife habitats healthy, they minimize the risk of zoonosis. This risk is today growing, because unsustainable development intrudes into wild habitats, undermines biological diversity, and disturbs viruses and bacteria. As the world's human population grows from 7.5 billion toward 9 billion people, these disruptions accelerate. All nations have laws and programs to protect wildlife and provide humane care for domesticated animals. It will be essential to give priority to environmental conservation laws for wild animals and to animal welfare laws for domestic animals.

In 2022, States have the opportunity under the aegis of the United Nations to endorse and apply UNEA's holistic approach to "One Health." The SDGs would support doing so, as expressed in the SDG Indicators 17.13-17.17 (policy and institutional coherence). A political declaration in 2022 can provide States with a foundation for international cooperation on One Health that at the same time furthers all the SDGs.²¹ SDG 3, ensuring health, cannot be attained without SDG 15 on restoring the damaged ecosystems from which emerging infectious diseases arise, and this requires advance the SDG 4 on lifelong education. The collaboration needed for holistic governance depends on the partnerships contemplated in SDG 17.

B. Governance and Finance: Converting Sovereign Debt to Finance Stewardship

Covid-19 has produced extreme economic hardship, for example producing the deepest recession in the United Kingdom in 300 years. All States face comparable economic and social crises in the wake of the Covid-19 pandemic. The disruption of economic life permits, and even requires, a reordering of economic relationships that prevailed in 2019 and before. Doing so will take many months and years of deliberations, but it will begin out of necessity. A political declaration to guide those reforms can be agreed in 2022. A policy framework to do so exist in each of the SDGs.

The UNEA building block of environmental governance implicitly contemplates reordering the financial relationships of governmental, private, and non-profit sectors, all together. The Open Working Group that prepared the SDGs understood that "the SDGs

²¹ This definition embraces the holistic UNEA "One Health" approach, beyond the narrow one in the WHO/FAO/OiE paper. See also N.A. Robinson, "The Next Pandemic is Here," *The Environmental Forum* 30-35 (vol. 37, no. 6, Nov./Dec. 2020, Environmental law institute). This is consistent with Paragraph 8 of the UNGA Resolution on "Harmony with Nature," A/RES/74/224 (19 January 2020), which "Calls for holistic and integrated approaches to sustainable development, in its three dimensions, that will guide humanity to live in harmony with nature and lead to efforts to restore the health and integrity of the Earth's ecosystems." See ICESL's "Note on Harmony with Nature" (15 March 2021), submitted also for this informal consultation as a separate, focused, submission, in furtherance of Res. 73/333.

are a universal agenda, and everyone has to work together, acknowledging that countries and people are starting from different places with different capabilities.”²² Measures to design pathways to apply and realize the SDG 17 Indicators on Finance²³ are essential to a holistic approach for environmental governance. UNCTAD’s estimate of investing \$(US) 7 billion per year to attain the SDGs may have looked to be a far reach before Covid-19; now given the trillions of losses world-wide to Covid-19, such an investment looks modest. The 2022 political declaration needs to point the way forward for reordering the global economy from unsustainable, inequitable relations to equitable and sustainable development as defined by the SDGs.

More is needed than reaffirming past financial conferences, such as is already agreed by UNGA Resolution 69/313 (27 July 2015), entitled “Addis Ababa Action Agenda of the Third International Conference on Financing for Development (Addis Ababa Action Agenda).” The Indicators for SDG 17 should promote a searching assessment to agree on innovative ways forward.

For example, environmental governance will need to address ways for converting sovereign debt into funds dedicated to implementing the SDGs. Kristalina Georgieva of the IMF already has called for restructuring the debt of developing nations. But restricting debt is unlikely to be enough to be meaningful in terms of attaining the SDGs by 2030. The debt service suspension initiative of the G20 does little to advance implementing the SDGs or bolstering environmental governance. Public sector lending has not produced a stable environment around the Earth, nor ensured that development is sustainable. The debts owed to the World Bank and IMF and other multilateral institutions need to be converted through debt-for-natural-equity swaps, into funds to restore and sustain environmental stewardship, and implement the SDGs. This could produce \$(US) 243 billion for SDG 17 targets.

Currently, proposals for new “international debt architecture” do not give priority to attaining the SDGs. Too often today, the SDG issues appear as externalities. In addition, commercial lenders, who hold perhaps 19% of developing country debts, need to rethink their holding to sovereign debt, although doing so entails complex legal issues that require analysis. The SDGs require more than a global bankruptcy regime for over-indebted governments. The IMF and others need to agree on affirmative measures to attain the SDGs, if not by 2030, then in measurable increments of time as quickly as possible.

This sort of searching analysis is required in order to underwrite the financing of each of the SDGs. It is beginning to be elaborated through study of the Indicators of SDG 17, but the pace of progress is too slow to meet the 2030 deadline that States have adopted. In 2022, any proposals for environmental governance, therefore, will need to agree on a

²² Macharia Kamau, Pamela Chasek, David O’Connor, Transforming Multilateral Diplomacy (Routledge 2018), at p. 205.

²³ SDG 17.1 to 17.5.

roadmap forward that can include pathways to integrate environmental governance into SDG 17 and all the SDGs. This can be agreed relatively quickly with respect to managing data monitoring and dissemination about environmental indicators. It will take more time to revamp international trading systems, as SDG 17.10-17.12 provides. The point, of course, for a possible 2022 conference on international environmental governance and its political declaration, will be to scope out the timetable and steps for all the partners to do their share to implement the SDGs.

Covid-19 has reduced all nations to suffer declines in human health, with attendant social, ecological, and economic crises. Barriers have fallen. Now is the time for re-examining the financial basis for implementing the SDGs. As Macharia Kamau and other have noted, “The SDGs are universal and apply to all countries. They have changed the traditional development agenda, where the focus was only on developing countries, and developed countries were responsible for providing the necessary finance, technology, and capacity building. The SDGs are applicable to all countries. Regardless of their level of development, while recognizing the varying points of countries and their different challenges to achieve the goals.”²⁴

C. Building Capacity for Effective Governance: Employing The Environmental Rule of law

Environmental governance depends upon observing and enforcing what today is recognized world-wide as “the environmental rule of law.” Humans have established environmental laws in all nations in order to take into account and live within the “laws of nature.” Take for example the legal duty under international law to conduct EIA before an act that may adversely affect the environment. Principle 17 of the Rio Declaration on Environment & Development provides that “Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority” (SDG 15) The International Court of Justice has held that the duty to perform EIA is an obligation of customary international law.²⁵ Article 206 of the UN Convention on the Law of the Sea requires EIA for coping with impacts on the marine environment (SDG 14).²⁶ EIA is a key legal tool for implementing the terms of the CBD.²⁷

²⁴ Macharia Kamau, Pamela Chasek, David O’Connor, *Transforming Multilateral Diplomacy* (Rutledge, 2018) at p. 210.

²⁵ *Pulp Mills Case on the River Uruguay (Argentina v. Uruguay)*, Judgment of 20 April 2010, at <https://www.icj-cij.org/en/case/135/judgments>.

²⁶ “When States have reasonable grounds for believing that planned activities under their jurisdiction or control may cause substantial pollution of or significant and harmful changes to the marine environment, they shall, as far as practicable, assess the potential effects of such activities on the marine environment and shall communicate reports of the results of such assessments in the manner provided in article 205.” – UNCLOS, Article 206.

²⁷ See <https://www.cbd.int/programmes/cross-cutting/impact/search.aspx#:~:text=The%20Convention%20on%20Biological%20Diversity%20%28CBD%29%20requires%20parties,have%20developed%20a%20conceptual%20framework%20to%20integrate...%203>.

All States shall also determine how to use EIA to assess ways to protect the atmosphere from harmful climate change impacts, under the 1992 UNFCCC.²⁸ The modalities for evaluating and avoiding adverse impacts that might impact the environment and sovereignty of another nation are agreed in the 1991 Espoo Convention on Environmental Impact Assessment in a Transboundary Context.²⁹

EIA permits government to undertake a holistic analysis, examining both direct and indirect impacts, cumulative impacts. Through their EIA systems, governments can identify the measures appropriate to mitigate or avert adverse impacts. If States observed their EIA duties, they would substantially protect the environment and public health and wellbeing. EIA is readily available tool to help identify and avert the zoonotic spill-over of emerging infectious diseases. EIA is an effective way to minimize or avert harm to the oceans and atmosphere, and reduce impacts causing climate change.

While virtually all States have national laws requiring EIA, most have not yet developed the capacity to deploy EIA effectively and efficiently. If they did so, they could do much to ensure that the SDGs can be implemented. There is a deficit across all nations in their environmental rule of law, as illustrated in the weak observance of EIA. UNEP has determined that the environmental rule of law is central to sustainable development, because it integrates environmental needs with the essential elements of the rule of law.³⁰ Doing so provides an essential framework for improving environmental governance.³¹

Similar deficits exist for implementing laws that protect wildlife habitats. Failures in applying legal tools to govern natural areas that harbour viruses and other emerging infectious diseases, leads to human infections, illness, and epidemics or pandemics. Failure to prevent water and air pollution results in illness, deaths, and economic losses. If States are to eliminate waste and attain the circular economy, they will need to observe the environmental rule of law. The IUCN World Commission on Environmental Law has prepared an authoritative statement of what the environmental rule of law requires.³²

²⁸ Article 4(f): “Take climate change considerations into account, to the extent feasible, in their relevant social, economic and environmental policies and actions, and employ appropriate methods, for example impact assessments, formulated and determined nationally, with a view to minimizing adverse effects on the economy, on public health and on the quality of the environment, of projects or measures undertaken by them to mitigate or adapt to climate change.” UNFCCC, Article 4.

²⁹ https://unece.org/fileadmin/DAM/env/eia/documents/legaltexts/Espoo_Convention_authentic_ENG.pdf.

³⁰ See <https://www.unep.org/explore-topics/environmental-rights-and-governance/what-we-do/promoting-environmental-rule-law-o>.

³¹ UNEP Decision 27/9 (2013). See UNEP’s [First Global Report on the Environmental Rule of Law](#) (24 January 2019) at <https://www.unep.org/resources/assessment/environmental-rule-law-first-global-report>.

³² See

https://www.iucn.org/sites/dev/files/content/documents/english_world_declaration_on_the_environmental_rule_of_law_final.pdf; see also UNEP’s [First Global Report on the Environmental Rule of Law](#) (2019) at <https://www.unep.org/resources/assessment/environmental-rule-law-first-global-report>.

One of the functions of EIA is to ensure that all adverse impacts may be identified and averted or mitigated. This is a “look before you leap” common sense legal tool. Even where there may be a gap in the statutes or treaty systems for environmental protection, comprehensive EIA enables harm to be prevented in the specific context of a government taking an action. Another function is to provide a means to implement Principle 10 of the 1992 Rio Declaration on Environment and Development, by providing for public participation in environmental decision-making and access to environment information.³³ EIS procedures are a proven means to educate all stakeholders about possible environmental harm, and to share information on how to prevent that harm. Moreover, while EIA is a procedure provided for similarly in all States, each State can adapt these and adopt them within national characteristics and traditions. In this way, its flexibility has ensured its nearly universal acceptance.

D. Strengthening Governance Through Ecological Management Systems

Globally, there are many international agreements to govern either environmental and natural systems (like the migration of species across boundaries)³⁴ or geographic regions (like the several UNEP Regional Seas agreements). Global environmental governance is built by States identifying shared interests in the environment and then cooperating to agree on the means to protect their shared interest. Several thousand treaties have been agreed in the past 200 years. They constitute an invaluable system of law, as described in the UNEP Manual on International Environmental.³⁵ These agreements define the substance for which the environmental rule of law provides appropriate procedural means to observe.

Existing MEAs offer readily available means for implementing SDGs. Their conferences of the parties are diligently implementing each MEA. What is now required is for all other intergovernmental organizations to acknowledge this pioneering work and align their on-going work to complement and build upon the actions plans of each MEA, integrate their mandates, via the SDGs, with those of the MEAs. In terms of MEAs and human security, “the process of institutionalizing cooperation has been based on the bedrock of ‘shared sovereignties’ *It has emerged as the need of the hour and one of the best tools to address global challenges in their various manifestations.*”³⁶ Strengthening

³³ “Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes.”

³⁴ ICEL’s co-founder and then Executive Governor, Dr. Wolfgang R. Burhenne, provided essential expertise to the drafting of the Bonn Convention on Migratory Species (CMS). See <https://www.cms.int/>.

³⁵ Nicholas A. Robinson & Lal Kurukulasuriya, *Training Manual on International Environmental Law* (2006), available at <http://digitalcommons.pace.edu/lawfaculty/791/>.

³⁶ ICEL Member, Dr. Bharat H. Desai, Jawaharlal Nehru Chair in International Environmental Law (New Delhi), published a comprehensive analysis of how UNEP and the MEAs serve States by providing a symbiotic relationship between law-making processes and institution and capacity-building processes, for the United Nations University (UNU) Institute for Environment and Human Security (EHS). See *InterSecTions*, no.

institutionalized inter-agency cooperation is an essential aspect of global environmental governance.

The modalities for strengthening these collaborative functions between UNEP, the MEAs and other inter-governmental organizations, should be a focus of future UNGA consultations. As environmental crises recur, States will look to the United Nations to provide a forum for agreeing upon and coordinating responses to crises across the Earth. In the wake of sea level rise, extreme weather events, and other environmental crises, it is no longer enough to rely on voluntary efforts, such as the Sendai Framework for Disaster Risk Reduction.³⁷ While the Sendai Framework collaborates with the other 2030 Agenda agreements, including the UNFCCC and the Paris Agreement on Climate Change, the Addis Ababa Action Agenda on Financing for Development, the New Urban Agenda, and aims to further the SDGs, disaster response and preparedness is an adaptation, and does not deter or minimize the worsening global trends in world-wide environmental degradation identified by UNEP in GEO-6 and UNEP's synthesis report "Making Peace with Nature".

Strengthening international environmental governance depends on not just an all-of-government approach but enlisting all the SDG 17 partnerships. Study of an "Environmental Security Council" will be needed.

II. Capacity Building for Implementing Environmental Law

Attaining the SDGs requires building the capacity in all sectors. Environmental stewardship is observed effectively through "environmental management systems," which provide best practices by which governments can benefit from their environmental laws and the environmental rule of law. However, while environmental governance systems, and procedural means such as EIA or EMS, can be deployed to attain the SDGs, unless public and private personnel know how to do so, this cannot happen. Education, formal and informal, and continuing, is essential. Capacity building is essential to the governance building block under Res. 73/333. Any political declaration in 2022 will need to assign a high priority to the steps necessary to enhance capacity-building for sustainable development, world-wide. As referenced above, UNEP has assisted States in doing so through the Montevideo Programme for the Development and Periodic Review of Environmental Law.

It is essential for all States to expand efforts that build capacity in environmental law in order to contribute to the environmental dimension of the 2030 Agenda for Sustainable Development. ICEL commends UNEP for providing its "results-oriented, gender-responsive and country-driven strategic activities to promote public participation, access

4/2006, December 2006 (UN Campus, Bonn, Germany): Bharat H. Desai, "Creeping Institutionalization," p. 10, available at <https://collections.unu.edu/view/UNU:1858>.

³⁷ Adopted by the UNGA in 2015. See: <https://www.undrr.org/publication/sendai-framework-disaster-risk-reduction-2015-2030>.

to information and access to justice in environmental matters.”³⁸ ICEL appreciates that UNEP will assign “special focus on disaster and conflict-affected countries, including through actions that target the most vulnerable populations.” UNEP’s support is also invaluable for key environmental law institutions, including courts and judges, prosecutors, and enforcement officers. ICEL appreciates and commends UNEP’s biennial, data-informed global assessments of environmental rule of law, which track and report on core elements of environmental rule of law, including legislation, and institutions, civic engagement, rights, and justice.

Such capacity-building is essential to advancing the SDGs. For instance, capacity-building and technical assistance, with a view to strengthening national environmental governance systems, improving environmental rule of law, makes substantial contributions to the environmental dimension of the 2030 Agenda at the international and national levels. When States advance environmental rights, such as providing in their constitutions and laws a right that declares a safe, clean, healthy and sustainable environment is integral to full enjoyment of a wide range of human rights, they are substantially advancing everyone’s right to life, health, food, water, and sanitation. More than 175 States provide environmental rights in their constitutions. Sharing best practices and precedents is an important aspect of capacity-building.

None of the options for enhancing global environmental governance can succeed without robust capacity-building. It is essential to strengthen the means to implement environmental law in every nation. UNEP has provided important support to States for their implementation of their environmental law obligations. Most significantly, the Fifth Montevideo Programme for the Development and Periodic Review of Environmental Law³⁹ is the latest in one of the most successful and long-standing of the UN’s international capacity-building efforts. While currently contributing an environmental dimension to the 2030 Sustainable Development agenda, the Montevideo Programme directly supports national agencies and programs. It has lacked the resources to address how governments could accelerate attaining the SDGs in a more integrated way, for example through use of environmental laws like EIA.

As nations recover from the Covid-19 pandemic and economic recessions, the international community needs to allocate more resources to capacity-building and implementing environmental law locally, nationally, regionally, and internationally. It can do so, for example, by making this a priority for restructuring sovereign debt as an element of addressing SDG 17.

³⁸ UNRP Environmental law Division Annual Report 2019 at <https://www.unep.org/resources/annual-report/law-division-annual-report-2019>.

³⁹ See https://www.unep.org/resources/policy-and-strategy/delivering-people-and-planet-fifth-montevideo-programme-development?_ga=2.104500612.540947897.1613403826-1234952990.1613403826. See also UNEP Progress Report on Montevideo V (2 March 2020) at available at <https://leap.unep.org/sites/default/files/inline-files/Report%20by%20the%20secretariat%20-%20Progress%20in%20the%20implementation%20of%20MV5.pdf>.

Many programs for capacity-building exist in all UN agencies. It will be important to evaluate how to build synergies between these. Some programs, like the roles of bodies such as the IUCN Academy of Environmental law,⁴⁰ building university-level legal education for environmental law, or the Global Judicial Institute on the Environment (GJIE),⁴¹ which assists judges, courts and tribunals to build their own capacity to effectively resolve environmental disputes, provide access to justice, and apply environmental laws and regulations. These program for legal education and continuing judicial education are global in design and reach, but not yet operating at a scale commensurate with the demand for their services.

Implementation of environmental laws nationally remains a high priority. UNEP's Law Division provides expertise to assist the international community in the progressive development of environmental law, through the promotion of capacities, transparency and accountability in judiciaries, legislatures and policy making institutions. Working directly with countries to combat wildlife crime and other environmental crimes and to meet international environmental commitments, the UNEP law division improves cooperation between legislators and environmental administrators around the world.⁴²

Similar undertaking are found in several U.N. specialized agencies that have for many years disseminated information on the current legislation of their Member States in such environment-related fields as health law (WHO International Digest of Health Legislation),⁴³ and renewable natural resources law (FAO Food and Agricultural Legislation series),⁴⁴ in many regional organizations such as the Asian Development Bank.⁴⁵ There is no system for linking these sources and databases together, to ensure ease of access and currency of information, as well as to make searches efficient and easy. These shortcomings

⁴⁰ <https://www.iucnael.org/en/>.

⁴¹ The GJIE has a secretariat at UNEP in Nairobi. Founded in 2019, it is a new institution. See the history provided by Justice Antonio Herman Benjamin (High Court of Brazil), https://unece.org/fileadmin/DAM/env/pp/a.to.j/JEN/2019_JEN/Statements_and_presentations/JC_O_GJIE_AB.pdf.

⁴² See UNEP divisions: <https://www.unep.org/about-un-environment-programme/why-does-un-environment-programme-matter/divisions>.

⁴³ For WHO, International Repository for Information Sharing (IRIS), see <https://apps.who.int/iris/handle/10665/86893>.

⁴⁴ For FAO, see, e.g., <http://www.fao.org/3/k7265e/k7265e06.htm>.

⁴⁵ For ADB, see for example the report on "Development of Environmental Laws and Jurisprudence in Pakistan" (November 2013), at <https://www.adb.org/publications/development-environmental-laws-and-jurisprudence-pakistan>. More broadly, see ADB "Regional: Building Capacity for Environmental Prosecution, Adjudication, Dispute Resolution, Compliance, and Enforcement in Asia" (2017) at <https://www.adb.org/projects/44364-012/main>.

are troubling in today's age of automatic technologies and internet access. Such basic capacity-building will be essential to achieve further efficiencies in environmental law compliance and enforcement.

Environmental law currently makes little use of emerging technologies, such as applications of artificial intelligence and big data analytics. These opportunities are showcased each year by the UN International Telecommunications Union (ITU) in its conference "AI for Good." UNEP and other agencies need to cooperate and collaborate to establish a common platform that deploys emerging technologies to achieve implementation of the MEAs and other environmental laws, and compliance with their agreed terms. Few UN agencies have this capacity at present. Rather than many agencies duplicating each other's efforts at building their technological capacity, as SDG Indicators 17.6-17.8 contemplate, it would be preferable in terms of global environmental governance for the UN to convene all environmental stakeholders to collaborate in the design and establishment of a shared and common platform. A political declaration in 2022 can advance the roles for "AI for Good" in terms of fulfilling the SDGs.

In summary, implementation of environmental law depends upon capacity building. The challenge is to muster the cooperation across all national and inter-governmental environmental law agencies and other partners to strengthen delivering services for this mission. Without doing so, States will fall short of attaining the SDGs and managing the impacts of today's climate, biodiversity, and pollution emergencies.

III. Draft Building Blocks for a Political Declaration

There are two types of political declarations that might usefully emerge in 2022. The first is one agreeing upon an action plan about governance, measures for institutional coordination, and capacity-building. This declaration would clearly state the perils that humanity faces unless governments act effectively to arrest and repair the growing damage to ecosystems (more than 50% world-wide are now degraded) and the acute biodiversity loss, as well as the enormous and continuing threats that accompany climate disruption resulting from by the still growing releases of greenhouse gases. There are steps that government can take to enhance global environmental governance to avert these disastrous events, including building the capacity necessary to do so while attaining the SDGs. Such a statement would summarize agreements among States on global environmental governance and capacity-building for environmental stewardship. The basis for such a declaration, and for a road map forward, already exists in the policy resolutions adopted by the UN Environment Assembly, and the UN General Assembly, among others such as the COPs of the MEAs. UNEA could consider adopting such a statement in February of 2022, for endorsement by the UNGA thereafter.

The second sort of political declaration would be similar to the declaration that States adopted in 1992 at the UN Conference on Environment and Development in Rio de

Janeiro.⁴⁶ The succinct Rio Declaration has been a huge success. Most of its principles are now enacted in national legislation and being observed in States today. A short policy declaration effectively guides State conduct. It is remarkable how governments have applied and adopted the Rio Declaration's principles in their national legislation.⁴⁷ The Rio Declaration guides States in implementing *Agenda 21* and applying it as appropriate in their national contexts. A political declaration in 2022 can do so by providing guidance about measures needed to attain the SDGs.

Both the 1972 Stockholm Declaration and the 1992 Rio Declaration were initially prepared by a working group of diplomats. ICEL recommends that a working group be appointed and invited to prepare a draft of a short political declaration, building upon the past Stockholm and Rio Declarations. The working group would draw on the recommendations of the UNEA, on the UN World Charter for Nature (Res. 37/7) of 1982, and on other relevant UN General Assembly resolutions, including those on climate change,⁴⁸ on the Law of the Sea,⁴⁹ and on Harmony with Nature.⁵⁰ The UN Secretary General reviewed applicable principles in his Report, "Gaps in international environmental law and environment-related instruments: towards a global pact for the environment."⁵¹

The UN International Law Commission's "Second Report on General Principles of Law" is also available.⁵² Reference may be had to the ICEL and the IUCN World Commission on Environmental Law "Draft Covenant on Environment and Development," under the chairmanship of Dr. Parvez Hassan, which has extensive commentaries.⁵³ Civil society organizations have prepared a number of widely accepted statements of shared principle, such as the Earth Charter⁵⁴ or the draft Global Pact for the Environment.⁵⁵ There are ample references for identifying and agreeing upon the measures need to attain the SDGs as rapidly as possible.

⁴⁶ Declaration on Environment and Development adopted at the UN Conference on Environment and Development (UNCED), 1992, A/CONF.151/26 (vol. I), 12 August 1992, at https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf.

⁴⁷ For example, the nearly universal use of Environmental Impact Assessment, Rio Principle 17. See UNEP's Report on national EIA legislation (2018), at <https://www.unep.org/resources/assessment/assessing-environmental-impacts-global-review-legislation>.

⁴⁸ For instance, resolutions on "Protection of the global climate for present and future generations of humankind," A/RES/68/212 (20 December 2013).

⁴⁹ For instance, "Oceans and Law of the Sea," A/RES/74/18 (10 December 2019).

⁵⁰ For instance, "Harmony with Nature," A/RES/74/235 (17 January 2020).

⁵¹ A/73/419, 3 December 2018, available at <https://digitallibrary.un.org/record/1655544>.

⁵² Second Report on General Principles of Law, by Marcelo Vazquez-Bermudez, Special Rapporteur, 9 April 2020, A/CN.4/741.

⁵³ Fifth edition, at <https://portals.iucn.org/library/node/46647> or <https://www.iucn.org/content/draft-international-covenant-environment-and-development-o>.

⁵⁴ See The Earth Charter at <https://earthcharter.org/> (endorsed by UNESCO, IUCN, and others).

⁵⁵ See <https://globalpactenvironment.org/en/>.

ICEL has studied the MEAs and other binding international environmental agreements to determine the acceptance of environmental principles in each region of the Earth.⁵⁶ There is nearly universal acceptance of many principles, including the right to the environment. ICEL presented a briefing (side-event) for the Permanent Missions to the UN General Assembly on principles for a political declaration on 27 October 2020, with experts from Malawi, France, Turkey, Costa Rica, and Norway, which is available online.⁵⁷ It should not be difficult for a working group of diplomats to restate the principles that will support the environmental stewardship which sustains implementation of the SDGs.

In ICEL's experience, a political declaration would build global support for attaining the SDGs and endorse steps toward that end. "We have only one Earth". This was one of the headlines of the UN Environment Conference which took place in the year 1972 in Stockholm. However, almost 50 years later, all the environmental indicators are red, whether for the climate, animal and plant species preservation, or air, land, and ocean pollution. Each citizen of the world sees for herself or himself today's environmental problems and recognizes how urgent it is now to act globally. None want another infectious disease to cause a pandemic again like Covid-19.

The foundations for an intergovernmental consensus on provisions of any political declaration exist in the universal support for the on-going work of UNEP. It is appropriate on UNEP's 50th anniversary to acknowledge this and take decisions to progressively develop policies that move States to attaining the SDGs further. A declaration can consolidate the support of States, civil society, private enterprises, and all other sectors of society, for progress towards a pollution-free planet. It can do so by advocating for the right to a clean, healthy, and sustainable environment. It can do so by recommending policies that States and other stakeholders could follow in developing their own strategies to attain the SDGs. It would further the capacity of States to implement their respective obligations under the MEAs in a coherent manner. It could reflect and consolidate the advances made by the conferences of the parties of the CBD, UNFCCC, and Paris Agreement, that will meet in 2021.

A political declaration can restate and consolidate the support that States already accord for a right to the environment in their national laws. It can clarify the duty of care States owe to sustain natural systems and cooperate to attain the SDGs. It can give voice to

⁵⁶ Charts examining the adoption of principles in international agreements by region, globally, were prepared by ICEL in conjunction with the Vance Center for International Justice (sponsored by the New York City Bar Association), and White & Case, an international Law Firm. The Charts are a public resource and reference. The charts are available, without charge, through both the Law Library of the Elisabeth Haub School of Law at Pace University (New York), at <https://libraryguides.law.pace.edu/icel> and the IUCN World Commission on Environmental Law (WCEL) at <https://www.iucn.org/news/world-commission-environmental-law/201812/global-pact-gap-report-released-un-environment>.

⁵⁷ See audio-video recording at <http://icelinternational.org/2020/10/27/un-side-event-briefing-on-strengthening-cooperation-for-international-environmental-law/> (27 October 2020).

strengthening environmental provisions EIA (Rio Principle 17). It can urge States to become more resilient in coping with today's environmental crises.

Any political declaration in 2022 will need to meet the high standards for such declarations as established previously in 1972, 1992 and 2002. As ICEL points out above often, this is clearly possible. To ensure careful preparation of a draft declaration, the intergovernmental consultations would be greatly facilitated if States could agree to contribute to an *ad hoc* small, informal drafting group, charged with preparing the initial text that can then be refined by all States. This accepted practice can be arranged by the Co-Facilitators, with the support of States in the Nairobi consultations, or by the UN General Assembly when it considers and remands the observances and events of 2022 back to Nairobi. Since time is short before February of 2022, measures like constituting drafting groups will be beneficial to international cooperation.

Beyond the symbolism of the UNEP 50th anniversary, a political declaration should reflect the emergence of global legal frameworks (like "One Health") that would better protect health on the planet. This can include general principles that, while filling the gaps in international environmental law, will serve to unify international law that is currently fragmented between technical and sectorial treaties (climate, biodiversity, land degradation etc.). They are essential texts but hardly accessible to citizens. Since the biosphere embraces natural systems that link and connect ecosystems, any political declaration will need to envision protecting all the life-support systems on the Earth. Moreover, it can reflect and confirm the rights and duties of citizens and governments towards the planet. Since 1995, ICEL has worked alongside partners like IUCN's World Commission on Environmental Law to study the elements for international agreements on environmental protection. See the ICEL/IUCN Draft Covenant on Environment and Development (now in its 5th edition, with commentaries).⁵⁸

The political declaration can address four over-arching objectives:

1. Recognize internationally the rights that the vast majority of States already recognize in national law, that is a right to an ecologically sound environment.
2. Provide frameworks, like "One Health," that serve to unify the guiding principles of international environmental law in an internally coherent legal document, providing cohesion for legal duties that are found in the existing sectoral approaches to governance.

⁵⁸ Draft Covenant is at <https://www.iucn.org/content/draft-international-covenant-environment-and-development-o>.

3. Guide subsequent intergovernmental consultations on restructuring financing for sustainable development, and on governance issues associated with coordination among international environmental organizations thereby enhancing the synergies among their undertakings.
4. Emphasize appropriate steps to enhance capacity-building and sharing knowledge and fostering cooperation world-wide to address environmental emergencies that prevent States from attaining the SDGs.

Building on the consensus in favour of the UNEP medium-term strategy 2022-2025, States can elaborate policies and principles to meet these four objectives in a political declaration. Thus, preliminary and informal drafting can begin promptly under GA Res. 73/333, or pursuant to a General Assembly mandate to constitute a working committee or temporary drafting group.

By way of illustration, here are six principles that would advance environmental governance. Comparable examples can serve to guide attaining each of the SDGs. There are many more available for any future political declaration:

- Non-Regression – short-term economic gain should not lead to lowering environmental standards; when attaining a level of progress toward attaining an SDG, back-sliding away from that level of attainment should not take place.⁵⁹ The principle of “progression” requires working to attain higher standards of environmental stewardship and the SDGs.

- Resilience – all appropriate measures should be taken to maintain and restore the diversity and capacity of ecosystems and human communities to withstand environmental disruptions and degradation and to recover and adapt.⁶⁰

- Duty of care – all States, international organizations, local authorities, institutions, enterprises, and each person have the duty to take care of the environment, and contributes at their own levels to the conservation, protection, and restoration of the integrity of the Earth’s ecosystems.⁶¹

⁵⁹ Michel Prieur, “Urgently Acknowledging the Principle of ‘Non-Regression’ in Environmental Rights,” *IUCN Academy of Environmental Law eJournal*, Issue 2011(1), available at <http://www.iucnael.org/en/e-journal/previous-issues/157-issue2011.html>.

⁶⁰ Nicholas A. Robinson, “The Resilience Principle,” *IUCN Academy of Environmental Law eJournal*, Issue 2014 (5), available at Robinson, Nicholas A., *The Resilience Principle* (2014). *IUCN Academy of Environmental Law eJournal*, Vol. 5, p. 19, 2014, available at <http://digitalcommons.pace.edu/lawfaculty/953/> and at SSRN: <https://ssrn.com/abstract=2497244>.

⁶¹ This duty is adopted in many States, e.g., U.K. 1991 environmental protection duty of care regulations, at <https://www.legislation.gov.uk/uksi/1991/2839/contents/made>; on the religious foundations for this ethic duty, see UNEP “Religions and Environmental Protection” at <https://www.unep.org/about-un-environment/faith-earth-initiative/religions-and-environmental-protection>.

- Rights of future generations – the interests of future, not yet born generations, should be recognized and provided for by present generations through consciously identifying the basic needs and rights of posterity during all decision-making.⁶²

- Ecological Health – the well-being of nature is fundamental to all human decision-making, and all actions should reflect a scientific appraisal of conditions necessary to sustain the integrity of living systems.⁶³

- Observing environmental laws – violations of environmental law undermine sustainable development, frustrate agreed environmental commitments at all levels, and deny environmental justice.⁶⁴ When environmental laws are disregarded, calls for establishing the crime of ecocide emerge.

Any political declaration could win acceptance by restating already well-accepted principles and norms and could progressively build upon these. Clarifying and codifying existing principles favouring the attainment of the SDGs will provide the guidance for the next decades.

A declaration will encourage the active and meaningful engagement of all relevant stakeholders at all levels, in different forums related to the implementation of international environment law and environment-related instruments.

A political declaration can guide the exploration of, and expectations for, new mechanisms to promote education, capacity-building, transparency and the effective engagement of civil society and all stakeholders.

⁶² See Report of the UN Secretary General, “Intergenerational solidarity and the needs of future generations,” A/68/322 (15 August 2013) at <https://digitallibrary.un.org/record/756820>.

⁶³ Covid-19 again clarifies that Ecological public health, based on ecological principles, may be “society’s greatest 21st-century imperative.” Attaining health and well-being necessitates reassessing the relationships between society, the economy, and the environment., as the SDGs contemplate. See George Morris and Patrick Saunders, “The Environment in Health and Well-Being,” *Environmental Science*, Oxford Research Encyclopedia (29 March 2017) at <https://doi.org/10.1093/acrefore/9780199389414.013.101>. Legal Principles must build this norm into governance.

⁶⁴ This is the thrust of the environmental rule of law. The IUCN World Declaration on the Environmental Rule of Law outlines 13 principles for developing and implementing solutions for ecologically sustainable development. See https://www.iucn.org/sites/dev/files/content/documents/english_world_declaration_on_the_environmental_rule_of_law_final.pdf.

Next Steps

ICEL appreciates and is grateful for the diligent work and significant progress that all States participating in the consultations have made since 2018. ICEL has been pleased to support and do what it can to advance international cooperation to strengthen environmental law at all levels of government. ICEL has disseminated the accomplishments of the consultations world-wide, and will do so again next September in Marseille, France, at both an ICEL Symposium and in the World Conservation Congress of IUCN.

ICEL was privileged to have participated in the 1972 Stockholm Conference, the 1992 Rio Conference, and the 2002 Johannesburg Summit, and shall participate in the events of 2022. ICEL welcomes the leadership of the CPR and UNEA in Nairobi and is gratified how since 1972 the regimes for environmental governance steadily have progressed. This success demonstrates that States can cope with today's environmental emergencies. At the same time, the challenges, however, are stark. Despite humanities' collective progress, human activity continues daily to degrade Earth's natural systems more than it protects them.

2022 is the watershed year. Decisions made about governance, and capacity-building, and clarifying the norms that can guide future state conduct will seal the fate for the Sustainable Development Goals, one way or the other. It is time to make peace with the planet.
